

1 UNITED STATES BANKRUPTCY COURT

2 EASTERN DISTRICT OF NEW YORK

3 Case No. 8-14-72941-las

4 - - - - - x

5 In the Matter of:

6

7 GERSHON BARKANY,

8

9 Debtors.

10

11 - - - - - x

12

13 U.S. Bankruptcy Court

14 Alfonse M. D'Amato Federal Courthouse

15 290 Federal Plaza

16 Central Islip, New York

17

18 September 16, 2014

19 11:51 AM

20

21 B E F O R E :

22 HON LOUIS A. SCARCELLA

23 U.S. BANKRUPTCY JUDGE

24

25

1 Hearing re: Motion to Dismiss Case Filed by Edward E.
2 Neiger on behalf of Gershon Barkany. (Entered:
3 08/13/2014)[13]
4

5 Hearing re: Motion to Dismiss Case Filed by Alan H. Katz on
6 behalf of Barkany Asset Recovery & Management, LLC.
7 (Entered 08/18/2014)[15]
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 Transcribed by: Nicole Yawn, Melissa Looney, Penny Skaw

1 A P P E A R A N C E S :

2 GERSHON BARKANY

3 Attorney for Debtors

4 775 Park Avenue

5 Suite 205

6 Huntington, NY 11743

7
8 BY: MICHAEL JANNUZZI, ESQ.

9
10 KAYE SCHOLER, LLP

11 Attorneys for Petitioning Creditor, Joseph Rosenberg

12 425 Park Avenue

13 New York, NY 10022

14
15 BY: LESTER M. KIRSHENBAUM, ESQ.

16 JONATHAN M. AGUDELO, ESQ.

17
18 RUSKIN MOSCOU FALTISCHEK, P.C.

19 Attorney for Ed Lowey (ph), Jonathan Lifeler (ph),

20 Murray Lifeler, and Sarah Lifeler and Whitefish, LLC.

21 East Tower, 15th Floor

22 1425 RXR Plaza

23 Uniondale, NY 11556-1425

24
25 BY: MARK S. MULHOLLAND, ESQ.

1 LOCKE LORD

2 Attorneys for Barkany Asset Recovery & Management

3 3 World Financial Center

4 New York, NY 10281

5
6 BY: ALLEN C. WASSERMAN, ESQ.

7 SHALOM JACOB, ESQ.

8
9 LAW OFFICE OF KRAMER & SHAPIRO, P.C.

10 Attorney for Petitioning Creditor, Paul Kessler (ph)

11 80-02 Kew Gardens Road

12 Suite 302

13 Kew Gardens, NY 11415

14
15 BY: LISA SHAPIRO, ESQ.

16
17 AGOSTINO & ASSOCIATES

18 Attorney for Marina District Development Company

19 14 Washington Place

20 Hackensack, NJ 07601

21
22 BY: JEREMY M. KLAUSNER, ESQ.

1 GOLDBERG & RIMBERG, PLLC

2 Attorney for Canadian Northern

3 145 Broadway

4 Suite 302

5 New York, NY 10006

6
7 BY: JOEL S. SCHNECK, ESQ.

8
9 VOUTE LOHRFINK MAGRO & MCANDREW, LLP

10 Attorney for Contingent Creditors, interested party in

11 opposition, Grand (sic) West (sic), LLP and Steven

12 Pastak (ph)

13 170 Hamilton Avenue

14 White Plains, NY 10601

15
16 BY: EDWARD G. WARREN, ESQ.

17
18 ALSO APPEARING:

19 EDWARD E. NEIGER, ESQ.

1 P R O C E E D I N G S

2 THE COURT: Thank you. Please be seated.

3 (Pause)

4 Number 11, Gershon Barkany.

5 UNIDENTIFIED SPEAKER: Are we skipping Kent (sic)
6 now (sic)?

7 THE COURT: I'm sorry?

8 UNIDENTIFIED SPEAKER: Are we skipping Kent?

9 THE CLERK: No, (indiscernible - 11:52:42) at
10 10:00, 10:00.

11 THE COURTR: At 10:00?

12 THE CLERK: No, number 10 on the calendar.

13 THE COURT: Oh.

14 UNIDENTIFIED SPEAKER: 10 or 11, Your Honor.

15 THE COURT: Number 10 on the calendar?

16 Number 10 is a motion to dismiss filed by the
17 debtor. Number 11 is the motion to dismiss filed by Barkany
18 Asset Recovery & Management.

19 UNIDENTIFIED SPEAKER: Correct.

20 THE COURT: Sort of involves the very same aspect.

21 And I'll get everybody's appearance, but, to the extent
22 we're going to address the motion to dismiss by Barkany,
23 obviously, you can come up. And let me take the appearances
24 on number 10 on the calendar, which is the debtor's motion
25 to dismiss. Let me get those appearances first, if I can.

1 MR. JANNUZZI: For the debtor, Michael Jannuzzi,
2 Gershon Barkany.

3 MR. KIRSHENBAUM: Good morning, Your Honor.
4 Lester Kirshenbaum, from Kaye Scholer, along with my
5 colleague, Jonathan Agudelo. We represent a petitioning
6 creditor, Joseph Rosenberg.

7 THE COURT: Thank you.

8 MS. SHAPIRO: Good morning, Your Honor. I'm Lisa
9 Levine Shapiro, Law Office of Kramer & Shapiro, P.C. We
10 represent the petitioning creditor, Paul Kessler.

11 MR. KLAUSNER: Morning, Judge. Jeremy Klausner,
12 Agostino & Associates, representing petitioning creditor,
13 Marina District Development Company.

14 MR. WARREN: Good morning, Your Honor. Edward
15 Warren of Voute, Lohrfink, Magro & McAndrew. I represent
16 contingent creditors, interested party in opposition, Grand
17 West, LLP and Steven Pastak.

18 MR. MULHOLLAND: Mark Mulholland, of Ruskin Moscou
19 Faltischek. I also represent a creditor and interested
20 parties, Ed Lowey, Jonathan Lifeler, Murray Lifeler, and
21 Sarah Lifeler and Whitefish, LLC.

22 THE COURT: Thank you.

23 MR. WASSERMAN: Allen Wasserman, Locke Lord, for
24 Barkany Asset Recovery & Management, LLC.

25 THE COURT: Thank you.

1 MR. JACOB: Good morning, Your Honor. Shalom
2 Jacob, also of Locke Lord.

3 MR. SCHNECK: Good morning, Your Honor. Joel
4 Schneck, from the law firm of Goldberg & Rimberg, for
5 creditors, Canadian Northern Realty, LLC and their managers
6 (sic).

7 THE COURT: Thank you.

8 MR. JANNUZZI: Good morning, Your Honor.

9 THE COURT: What I'd like to hear from the debtor
10 is just sort of a general overview. And then, we need to
11 talk about the plethora of pleadings that have been filed
12 and the threshold issue that the Court is going to need to
13 address, and we'll talk collectively on how best to address
14 that threshold issue. But, before I get to that, let me
15 just get a little bit of a background and an overview from
16 the debtor.

17 MR. JANNUZZI: Sure, Judge. The purpose of the
18 motion that I filed or the focus of that motion is that it
19 is not in the debtor or the creditor's best interests to
20 have an involuntary bankruptcy proceeding. And secondly,
21 that the three required creditors with respect to one of
22 them, there is, in fact, a question that that particular
23 debtor is a disputed liability to the bankruptcy. And
24 therefore, they haven't met the threshold requirements of
25 having three petitioning parties.

1 Mr. Barkany has two main groups of creditors that
2 collectively are owed \$66 million as a result of a Ponzi
3 scheme which he has pled guilty to but has not been
4 sentenced. The crime that he pled guilty to is mail fraud.
5 The maximum sentence for that crime is 20 years.

6 The amount of \$66 million represents the net loss.
7 There has been to date \$22 million paid back towards that
8 \$66 million debt. And there are still several assets, which
9 either need to be realized for value or the value itself has
10 to be ascertained and agreed.

11 Neither of the two groups, who are both
12 represented here today, are in favor of the bankruptcy
13 petition. Collectively, the petitioners are less than three
14 percent of the Barkany debt, assuming that they all have
15 valid claims, which is far from a certainty.

16 Now, in the 305(a)(1), they're asking for
17 abstention, because, as I said to the Court, we do not
18 believe it's in the creditors' best interests. There is a
19 criminal matter pending presently.

20 In that criminal case, there is a procedure set up
21 wherein Mr. Barkany has been given the opportunity to not
22 only turn over the assets and make the restitution that he
23 has so far, but to continue to work. The proceeds of his
24 work would be paid to his criminal attorney, who is in
25 charge of monitoring his activity, who reports to the United

1 States Attorney's Office. And, in turn, both parties report
2 to Judge Wexler.

3 If this restitution was to continue past
4 Mr. Barkany's sentencing, any restitution would be also
5 monitored by the United States Department of Probation. I
6 don't know if we want to go into the details of it at this
7 point, Judge, given what you've said to me, but I will tell
8 you that, in looking at the case law, that I've reviewed and
9 relied upon in code section 305(a)(1), there is a series of
10 factors that a Court has to look at as to whether or not --
11 whether even when the Court has jurisdiction, the Court
12 should exercise or abstain from jurisdiction. And, looking
13 at each of those factors, it is clear to me that none of
14 them favor the petitioners, and all of them favor the debtor
15 for the relief of dismissal of the bankruptcy petition.

16 THE COURT: Let me just ask a question, because I
17 don't want to take your entire oral --

18 MR. JANNUZZI: I understand.

19 THE COURT: -- argument at this time.

20 MR. JANNUZZI: The second part of our argument
21 relates to whether or not there is a disputed liability.

22 THE COURT: And that's one of the questions that I
23 do have. Is the debtor alleging that the purported claims
24 now, I'm not making any findings with respect to any claims,
25 and I'm not making any findings on the Section 303 at the

1 moment. I'm just trying to get the background.

2 So is the debtor alleging that the purported
3 claims held by each of the petitioning creditors is subject
4 to a bona fide dispute as to liability or amount, or is the
5 allegation that it's only the claim asserted by Marina
6 District Development Co. that's subject to the bona fide
7 dispute?

8 MR. JANNUZZI: It's only with respect to Marina
9 Development, Judge.

10 THE COURT: And it's also, as I understand it,
11 there's an issue as to whether or not the Marina Development
12 even is the holder of a claim, or is it a question that they
13 hold the claim, but the debtor would have a counterclaim or
14 separate claims against Marina District Development, which I
15 think is going to abbreviate as MDDC?

16 MR. JANNUZZI: That's correct. I would like to
17 abbreviate it further and just call them Marina, if that's
18 okay with the Court?

19 THE COURT: That's fine by me.

20 MR. JANNUZZI: Okay.

21 THE COURT: It's a little easier for me.

22 MR. KLAUSNER: It might just be easier to call it
23 the Borgata, since it's the Borgata Hotel and Casino and
24 Spa.

25 THE COURT: Okay. Thank you.

1 MR. JANNUZZI: With respect to Marina, Judge, what
2 my understanding is and what we specifically put into the
3 papers is that we were advised by a forensic accountant
4 hired by Barkany Asset Management Recovery, BARM, LLC that,
5 in fact, Marina Development has not been forthcoming with
6 information and that, on the documentation that he's looked
7 at originally, he was of the opinion that there was a
8 discrepancy of amount of \$700,000. The papers that were
9 filed by Marina did nothing to resolve that discrepancy, and
10 that a subsequent review of further documentation by that
11 same forensic accountant, S. David Belsky, who I believe is
12 here today, indicated that that \$700,000 sum may actually be
13 over \$1 million.

14 And, considering the fact that if, in fact, there
15 is a dispute as to this liability and this liability is not
16 owed by my client, then, in fact, that's another ground for
17 dismissal of this petition.

18 THE COURT: And correct me if I misunderstood.
19 But is my understanding correct that the three petitioning
20 creditors are also defendants in actions that are pending
21 right now in state court?

22 MR. JANNUZZI: To my knowledge, Judge, none of the
23 three petitioning creditors ever pursued Mr. Barkany for
24 enforcement of the debt they claim that is owed. And it is
25 only upon them becoming defendants in state lawsuits that

1 they have filed this bankruptcy proceeding.

2 THE COURT: Thank you.

3 Is there a forfeiture order that has been entered
4 in the criminal action?

5 MR. JANNUZZI: I'm sorry, Judge?

6 THE COURT: A forfeiture order, a criminal
7 forfeiture order?

8 MR. JANNUZZI: No.

9 THE COURT: Has that been --

10 MR. JANNUZZI: He has not -- and this goes to the
11 last point I want to discuss with the Court about my
12 client's taking the 5th Amendment during his deposition.
13 There has not been a forfeiture or a restitution order,
14 which would probably be the more appropriate one in his
15 particular case, because he has not yet been sentenced.

16 But there has been a procedure put in place at the
17 time that he took a plea whereby that very method that I
18 described to the Court, where his criminal attorney is
19 monitoring his efforts at paying back this restitution,
20 reporting that to the U.S. Attorney and, in turn, reporting
21 it to Judge Wexler.

22 And these restitution efforts, while everybody on
23 this case has described as pie in the sky or they can't
24 believe it or it's unbelievable -- the fact of the matter
25 is, even with being hindered by the criminal prosecution, he

1 has gone out disclosing everything that he's facing. He has
2 raised millions of dollars. They have now bought three
3 different oil fields. They are in production on two of
4 them, and there's interest in the sale or possibly a
5 discussion of the sale of one of them once it starts
6 producing.

7 And this would produce millions of dollars in
8 revenue, which will, in turn, satisfy much of the debt that
9 he faces. So, for us, there is, in fact, a procedure in
10 place which makes this bankruptcy filing unnecessary.

11 THE COURT: Well, let me ask a couple of questions
12 on the procedure that you say is in place, and you had
13 mentioned earlier, and I think also the papers also said it
14 as well that there is, you know, \$22 million that has been
15 paid back. Who is holding the \$22 million, and what is the
16 mechanism that's in place for distribution of the 22
17 million?

18 In other words, is the 22 million or all of the
19 money that will now be collected under, let's say, the aegis
20 of BARM, if I got the abbreviation correct on that -- is
21 there going to be a ratable (sic) of distribution? Is there
22 an equitable distribution of those funds? And, if so, how
23 do you account for all of the different claims?

24 In other words, is the money that's coming in
25 under BARM -- and I understand Mr. Belsky is sort of the

1 person that's sort of in control of BARM. And you're out
2 there, and you're recovering all of these funds, and you're
3 bringing various lawsuits. What happens to the proceeds of
4 all of that, the 22 million plus?

5 MR. JAZZUNNI: Well, the 22 million is before. It
6 was paid before the commencement of the criminal action.

7 THE COURT: And so, that 22 million was paid to?

8 MR. JAZZUNNI: BARM. Now, --

9 THE COURT: And so, BARM is holding the 22
10 million, or BARM has disbursed that 22 million?

11 MR. JAZZUNNI: I think BARM's attorneys would be
12 better suited to answer that question.

13 THE COURT: Thank you.

14 Please.

15 MR. WASSERMAN: I can speak to that. Allan
16 Wasserman.

17 What BARM has done is, at the very outset of their
18 cooperation with Mr. Barkany, Mr. Barkany identified assets
19 that he had, liquid assets, hard assets, stock portfolios,
20 essentially anything that would help satisfy and make
21 restitution. In addition, what BARM did was retain S. David
22 Belsky's firm as forensic accountants to help us determine
23 what assets were out there.

24 And, in connection with that, Mr. Barkany turned
25 over substantially all of his records. And where he did not

1 have records such as bank statements, cancelled checks, and
2 things of that nature, he gave authorization to the banks to
3 turn those over.

4 In addition, he provided us with his computer hard
5 drive. All of this so that Mr. Belsky could provide as
6 thorough and complete a picture as possible of where the
7 money went, who received money, who is owed money, whether
8 people are net losers or net beneficiaries.

9 As part of that process, as money came in, the
10 money is being held by BARM. Because the process has not
11 been completed yet, the money has not been distributed.
12 That money will eventually be distributed on a pro rata
13 basis to people who have demonstrated that they are entitled
14 to those proceeds as net losers.

15 THE COURT: And, if you're outside the bankruptcy
16 court, how would you put a mechanism in place to assure that
17 those who hold claims, hold valid claims would be able to
18 participate in this ratable distribution of the funds from
19 BARM?

20 MR. WASSERMAN: Well, there are a number of ways
21 that that's accomplished. Mr. Jannuzzi spoke to the
22 judicial oversight that is already in place.

23 One of the very first things that Mr. Barkany's
24 criminal counsel demanded of us, which we acceded to, is
25 that it was essential for Mr. Barkany that all monies that

1 were recovered be applied towards his restitution obligation
2 and that this was a process that had to be supervised by the
3 Court, and Mr. Barkany was obligated to make full
4 disclosure. We have agreed to that. And accordingly,
5 whatever monies are recovered will be applied towards
6 Mr. Barkany's restitution obligation.

7 With respect to what I would call members of the
8 BARM group, these are people who -- when Mr. Barkany first
9 approached us and, if you will, confessed to his crime, we
10 asked him to identify all of his victims. He identified the
11 people who are members of the BARM group.

12 In addition, based on his forensic review of the
13 documents which were provided by Mr. Barkany or obtained by
14 us through subpoenas or cooperation with other parties,
15 Mr. Belsky did his own analysis of who the potential victims
16 are, the net losers. Anyone who is a net loser who has lost
17 money to Mr. Barkany is welcome to participate in the
18 recovery. They do have to abide by the procedures that
19 govern all members of BARM.

20 But the door is not closed, and it has never been
21 closed.

22 MR. NEIGER: Judge, if I may just add one more
23 point to that. Whether the money was collected prior or the
24 money is collected since the institution of the criminal
25 action, there will be a total restitution figure. And, with

1 respect to that restitution figure, the Court will order, as
2 restitution does, a pro rata distribution of that money
3 that's collected. We're hoping it's 100 percent, but 'til
4 that happens, it's a question.

5 But there will be a pro rata distribution of the
6 money that's been received, and we have been working and
7 cooperating to establish the value of what's been paid to
8 date. And, in fact, there's been another, I'm going to say,
9 a million and three that's been received from Mr. Barkany in
10 the last nine months of IRS proceeds, which have also been
11 handed over to bar (sic).

12 THE COURT: Thank you.

13 MR. JANNUZZI: Judge, at this time, is it the
14 Court's desire that I go into the argument about my client
15 taking the 5th Amendment, or hold off on that for now?

16 THE COURT: Well, I think I'd like to hear from
17 the petitioning creditors, because, as I mentioned earlier,
18 there is the threshold issue of the filing of the
19 involuntary and whether or not it's an eligible filing with
20 respect to the issue that's been raised on a bona fide
21 dispute. And collectively, we'll figure out the best way to
22 handle that threshold issue.

23 But let me just hear sort of an overview from the
24 petitioning creditors, and then, we can get into a little
25 bit more substance.

1 MR. KIRSHENBAUM: Thank you, Your Honor. Lester
2 Kirshenbaum. I represent in particular the petitioning
3 creditor, Joseph Rosenberg, but I think that to the extent
4 I'll be speaking on an overview basis for all three of the
5 petitioning creditors.

6 Your Honor, much of what you've heard this
7 morning, obviously, this is the first day you've heard this
8 case. So we can certainly say that the Court is new to the
9 case. The people that are on the left side of the courtroom
10 to my left are not necessarily new to the case, and I can
11 assure you that much of what you've heard for the first time
12 today are items that we've all heard for the first time
13 today as well.

14 There has never been an open process with respect
15 to BARM or with respect to anything else. To our knowledge
16 -- and you go back, Your Honor, to the papers that we filed
17 in connection with our opposition to the motion to dismiss,
18 I think Your Honor is seeing there have been many, many
19 pieces of paper, many, many emails that I think are crystal
20 clear that BARM has made -- now maybe BARM, Your Honor --
21 it's a few days before the Rosh Hashanah holiday and the Yom
22 Kippur holiday.

23 And it could be that BARM is engaging in major
24 repentance today, Your Honor. But that would be a very,
25 very brand new development.

1 Your Honor, going back to November, late November
2 2010, Mr. Barkany, under circumstances that he knows -- we
3 don't know -- approached certain of the creditors of the
4 BARM group and confessed to them that he had been engaged in
5 a Ponzi scheme. While he told them that a number, perhaps
6 many of the transactions in which his investors had invested
7 had, in fact, earned supposedly profits, he was engaged in a
8 Ponzi scheme as well, and he could not repay the investors
9 that he was then talking to on their then outstanding
10 investments.

11 Now, that group, Your Honor, among others -- and
12 we have done very little discovery. And, in fact, most of
13 the discovery that's been done in this regard was done very,
14 very recently by the Ziffman Kostel (ph) firm in connection
15 with their litigation.

16 But, Your Honor, that group included 1 person by
17 the name of Joe Pinsky (ph), who invested in 13 different
18 transactions, admitted under oath under examination by the
19 Ziffman Kostel lawyers that he had earned substantial
20 profits in the first 10 of the 13. It involved a second
21 creditor by the name of Haim Silverburg (ph), who admitted
22 that he earned \$1 million in profits on the first 4 or 5
23 transactions that he engaged in with Barkany and then
24 apparently lost a million-and-a-half in the sixth
25 transaction.

1 The deposition of Mr. Grohman, Charles Grohman,
2 who apparently is owed \$45 million, was also taken. And he
3 admitted that, in the first number of transactions that he
4 invested with Barkany, he made substantial, substantial
5 profits. And Mr. Grohman, during the course of his
6 deposition, under oath, talked about a fellow by the name of
7 Jordan Most (ph), who apparently is Mr. Grohman's good
8 friend and the person who advised Mr. Grohman to get
9 involved in Mr. Barkany's investments.

10 And Mr. Most claims a debt of \$5.4 million.
11 Mr. Grohman testified under oath that Most, Mr. Most had
12 made substantial monies on his first transactions with
13 Barkany.

14 So you're talking, Your Honor, about a group that
15 it could be that the entirety of the BARM group was engaged
16 in numerous transactions over time and many of them earned
17 substantial profits on many of their earlier deals. It could
18 well be, Your Honor, because their depositions have not been
19 taken that many of the other members of the BARM group could
20 be that their earlier profits outweigh what they ended up
21 being owed when this music stopped.

22 Now, notwithstanding that fact, Your Honor, the
23 BARM group retained counsel. I don't know whether the
24 counsel basically went out and solicited BARM group. But
25 the (indiscernible - 12:13:30) group got involved very early

1 on, and they met with Mr. Barkany time and time again.

2 While Mr. Barkany, as I understand, was generally
3 perhaps never represented by counsel, and Mr. Barkany came,
4 met with them for hours, met with Mr. Belsky for hours,
5 spilled his guts to them for hours, turned over all his
6 records, and basically did whatever they said. This was
7 going on, Your Honor, unbeknownst to the rest of the world.

8 And that, Your Honor, a number of months later, in
9 a piece of paper, an amazing piece of paper entitled a
10 confession of judgment that's dated in August of 2011 --
11 they had been talking to this gentleman for 6 months. No
12 one else knows about it, except, Your Honor, certain of the
13 charities, including a charity by the name of Gateways that
14 had started to be approached by Mr. Jacob as early as
15 February of 2011 supposedly, on behalf of all of the
16 creditors of Barkany.

17 And Gateways was told, "You better return the
18 money to us. Let's work out a deal under which you agree to
19 return the money to the people Locke Lord represents. And,
20 by the way, Gateways, keep this under confidence. Don't let
21 anyone know what we're talking about."

22 Then, in August, Your Honor, a confession of
23 judgment is entered into by Barkany. That confession of
24 judgment, Your Honor, as far as we know, was drafted by
25 Locke Lord. That confession of judgment was not passed upon

1 by an attorney for Barkany.

2 That confession of judgment written by Locke Lord
3 basically lists a whole bunch of Barkany companies and a
4 whole bunch of creditors and says that Barkany and these
5 companies owe these creditors over \$58 million. No
6 explanation, no breakdown. And, by the way, Your Honor,
7 it's important to note that, as far as we know, every single
8 member of the BARM group was involved in different
9 investments. So virtually everyone.

10 It's not as if Grohman invested with Most, and
11 they invested with the other guy. They all invested
12 separately. So there's no one group, and everyone is
13 ordered (sic) or not.

14 And, when you do the math, Your Honor -- and I've
15 just done the math in the last few days after I had the
16 benefit of seeing a couple of these transcripts of the
17 depositions taken by the attorneys for Ziffman Kostel. When
18 you do the math, it's clear that the \$58 million that
19 Barkany claimed or admitted to owing all these creditors
20 completely ignored all of the profits that that entire
21 creditor group earned during all the wrong (sic)
22 transactions, which very, very easily, Your Honor, could
23 have very well eaten into a substantial amount of this
24 alleged debt.

25 Now, also, Your Honor, during the same period of

1 time -- and we don't know in days. But, during the same
2 early period of time, it's been alluded to already Barkany
3 unsupervised without an attorney, without getting any court
4 protection, turned over all of his assets, all of his assets
5 to Locke Lord on behalf of their creditor group.

6 Now, Your Honor, those assets were the subject of
7 some incredible exchanges of correspondence between Locke
8 Lord and Mr. Jannuzzi at the end of June of this very year
9 in front of Judge Wexler, where Locke Lord sent a letter to
10 Judge Wexler on June 27th saying, "Judge, we believe that
11 Barkany has not been honest with us. He's still being
12 dishonest with us."

13 "Barkany has not disclosed to us many assets.
14 There are many assets overseas that we have not seen. We
15 believe that there are assets in Israel. There may be
16 assets in the Ukraine. There may be assets elsewhere.
17 Barkany has not been cooperating with us, and we're really
18 angry at it."

19 And that, Your Honor, is actually very consistent
20 with an email that Mr. Jacobs sent to Mr. Jannuzzi on
21 June 11th, which is in text (sic) to Mr. Jannuzzi's June 27
22 letter where Mr. Jacobs said to Mr. Barkany -- reiterated on
23 June 11th, "Your client's obligation is mainly to our
24 clients." That's his exact words.

25 And, Your Honor, in Mr. Jannuzzi's letter to

1 Judge Wexler responding to Mr. Jacob's letter that same day,
2 Mr. Jannuzzi accused Locke Lord of being a lamb in sheep's
3 clothing. And Mr. Jannuzzi's co-counsel, Mr. Barkett (ph),
4 said that Locke Lord was taking actions to basically favor
5 its creditor group over all the other creditors and accused
6 Locke Lord of not acting in good faith in this whole
7 process.

8 Mr. Jannuzzi, in his letter of June 22nd, said
9 that the assets that had been turned over to Barkany, I
10 think, Your Honor, all during that 6-month window of the end
11 of December, the end of the year of 2010 through maybe the
12 first months of 2011 was worth \$32 million. Now,
13 Your Honor, and up to that point in time, the only piece of
14 paper that I'm aware of that had ascribed any value to the
15 assets that were turned over to Barkany was a partial
16 satisfaction of judgment that was filed the Supreme Court
17 action in August of 2011 where the BARM group said the
18 assets -- we partially satisfied our claim in the amount of
19 \$10.6 million.

20 So, between August of 2011 and June 2014, there's
21 nothing said about the assets turned over to BARM and what
22 it may be worth. In response to Mr. Jannuzzi saying there
23 are \$32 million worth of assets, BARM sent a letter back to
24 Judge Wexler on June 30. Attaches for the first time, as
25 far as I know, Your Honor, publicly a schedule of the assets

1 supposedly turned over. It consists of real estate. It
2 consists of money. It consists of stocks. It consists of a
3 heck of a lot of stuff. And they say it's worth 22 million.

4 So Mr. Jannuzzi said it's worth 32 million. They
5 said it's worth 22 million. So now, we have a discrepancy
6 between 22 and 32. All this, Your Honor, between June of --
7 between August of 2011, when that confession of judgment was
8 signed, and June of 2014. No one knows anything about this,
9 except the BARM group.

10 It gets worse, Your Honor. As we said in our
11 paper, Barkany signed a confession of judgment in an action
12 entitled New York Supreme Court County of Queens Cortland
13 Realty and a whole bunch of other. Cortland Realty is a \$45
14 million creditor of Mr. Grohman.

15 Cortland Realty and all these other creditors --
16 but there's no index number, because Barkany signed that
17 after David -- that confession of judgment in August of
18 2011, and Locke Lord took that confession of judgment and
19 stuck it in a drawer. It stuck it in a drawer until
20 March 25, 2013.

21 Two days, Your Honor, before the Government sought
22 the arrest of Mr. Barkany, all of a sudden, magically,
23 Cortman Realty and Locke Lord files an action. It gets an
24 index number in the Supreme Court action in Queens, and now,
25 takes that confession of judgment that they had been sitting

1 with for 20 months at least and gets a judgment in the
2 amount of \$58 million. And again, doesn't (sic) list all
3 the Barnett (sic) fees, lists all of the BARM members, and
4 says the Barkany entities owe the BARM members \$58 million
5 plus \$8 million in interest, and a whole bunch of other
6 stuff, costs, attorneys' fees, the works, no delineation
7 person-by person.

8 Now, Your Honor, so therefore, BARM sits on this
9 for two-and-a-half years. And apparently, Your Honor, while
10 that goes on, no one else knows about this fraud, and no one
11 else knows that Barkany has confessed to engaging in a Ponzi
12 scheme.

13 And so, therefore, Barkany goes out and does more
14 deals, does deals with Mr. Schneck's clients for which they
15 sued based on deals -- Ponzi scheme types of deals that
16 occurred during 2012 and 2013. Had it actually been
17 commenced by the BARM group in August of 2011, when they had
18 -- when they got this confession of judgment, you wouldn't
19 have had any of those later deals.

20 You know, they talked about Borgata and the
21 Borgata claim. Well, Barkany had been gambling at Borgata
22 since 2009. But the outstanding balance, Your Honor,
23 Barkany had basically engaged in what's called the -- this
24 is all new to me, Your Honor, but a voluntary abstention
25 from continuing.

1 So, between the time that Barkany started gambling
2 and the time that that confession of judgment was, you know,
3 signed by Barkany, he entered into a partial cessation. So
4 there was nothing going on with the Borgata for a while.

5 Now, had that action been filed, Your Honor, after
6 they got that confession of judgment in August of 2011 and
7 Barkany went back to Borgata and said, "Hey, I want to start
8 gambling again. Give me credit." Well, Borgata obviously
9 would not have given credit.

10 So a lot of what you see today, Your Honor, in
11 terms of what's around the table is directly due to the fact
12 that the BARM group got this confession of judgment that
13 they dictated and they wrote over a period of months while
14 Barkany wasn't represented by counsel. Got all of the
15 assets. Kept everything for themselves.

16 That's been their modus operandi since the
17 beginning. Recently, of course, Your Honor, they started
18 lawsuits against everyone that they've identified, according
19 to them, may be a winner. And they said give us everything
20 back.

21 But, as far as I know, no one has gone to the
22 various members of the BARM group and said you know what?
23 Mr. Pinsky, those first tapes are his actions (sic) where
24 you made a profit of \$500,000, \$600,000. That's a
25 (indiscernible - 12:23:41). You have to give that back.

1 Mr. Most, you earned well over \$1 million in
2 profits for your earlier deal. That's a fraudulent
3 conveyance. You have to give that back.

4 No, the BARM members, apparently, are not being
5 sued. They're not being sued. There's no supervision going
6 on. And there's nothing, Your Honor, in terms of any formal
7 agreement with the Government that anyone has seen.

8 Now, if things have been agreed to between the
9 United States Attorney and the creditor group, the BARM
10 group, I don't know, Your Honor. But all I know,
11 Your Honor, is at the end of June, BARM was in asking or
12 telling Judge Wexler he should not permit Barkany to fly
13 because he's a flight risk and he's a crook and he's a
14 cheater and he continues to be one.

15 So, all of a sudden, magically, Your Honor,
16 between the end of June, that he's a flight risk and a fraud
17 and there are assets all over the world, which, Your Honor,
18 I certainly suggest he does -- finds the assets and goes
19 after the assets. All of a sudden, none of that's important
20 any more. I don't know why. I don't know why.

21 So, Your Honor, that is the lay of this land in
22 terms of oversight. Now, Your Honor, it's even worse than
23 that, because BARM, not only has collected assets and
24 liquidated some (sic) kept all that information, Your Honor,
25 I invite you to ask Mr. Wasserman if Your Honor were to

1 enter an order today keeping this case in bankruptcy,
2 whether BARM will voluntarily turn over -- there'll be a
3 trustee appointed, whether it's tomorrow, whether it's the
4 next day, whether BARM will agree to turn over all of the
5 assets that it's holding to the trustee.

6 Now, there's no better way to assure a complete,
7 fair, and equitable and ratable distribution than turning
8 everything over to a bankruptcy trustee who will do
9 everything under the supervision of the Bankruptcy Court.
10 Who gives Mr. Belsky the right to decide that?

11 Who gives Mr. Jacob and Mr. Wasserman the right to
12 decide that? That's not the way our system works. That's
13 not the way our system works.

14 And, Your Honor, restitution and forfeiture within
15 the context of a criminal case -- that happens. That is not
16 equivalent to a bankruptcy.

17 Your Honor, I know, has practiced bankruptcy law
18 for many, many years, and Your Honor certainly appreciates
19 and understands that the bankruptcy court and the bankruptcy
20 process is set up specifically for the purpose of gathering
21 all the assets and having a fair and very consistent review
22 of all the claims, determining who the claimants are,
23 pursuing all of the fraudulent conveyances, pursuing all
24 avoidance actions, pursuing and scrutinizing potential bases
25 to declare someone to be an insider, that to have engaged in

1 under the influence and so forth, and ultimately determine
2 how everything shakes out.

3 That's a bankruptcy process, Your Honor. That is
4 not a criminal process.

5 I believe, Your Honor, Mr. Jannuzzi's case is a
6 non-criminal attorney, a civil turf. I'm a civil attorney.
7 I'm not a criminal attorney, but I know enough to know,
8 Your Honor, that the forfeiture process that goes on in the
9 context of a criminal case is not the substitute for a
10 bankruptcy proceeding. It's never intended to be.

11 What bigger criminal cases within the last -- I
12 mean, in the history of bankruptcy law than the Madoff case?
13 Madoff's criminal case was not used as the basis for
14 dividing the assets, determining who the claimants are, and
15 dividing the assets. That was done under the rubric, under
16 the supervision of a bankruptcy judge. That's the only way
17 to handle a Ponzi case.

18 To suggest that this could be properly done within
19 the framework of a criminal proceeding, Your Honor, I just
20 think is literally turning things upside down. In
21 particular, Your Honor, in this case, where you're not
22 coming in with a situation -- you're not dealing with a
23 situation where no one knew anything until a criminal
24 proceeding was filed.

25 The BARM group had two-and-a-half years head start

1 on everyone else. Now, when they said, Your Honor, that
2 they are simply going with the list of creditors that was
3 supplied to them by Barkany, that's not true, either.
4 Because the very first -- it's a detail, Your Honor, but I
5 think it points to, frankly, the lack of good faith of this
6 group.

7 The very first list of creditors given to the
8 Locke Lord people by Barkany and the second one -- the first
9 one was given on November 27th, 2010. The second one was
10 given on December 1st. And I'll tell you why, Your Honor,
11 there were two.

12 But, at any rate, Your Honor, both of those lists
13 list Mr. Rosenberg. But that doesn't fit well into the --
14 as a creditor. And Mr. Rosenberg, Your Honor, is owed, by
15 the entirety of the Barkany group, over a million dollars.
16 But that doesn't include (indiscernible - 12:28:47). Why?
17 Because Mr. Rosenberg is Mr. Barkany's father-in-law.

18 So therefore, if Mr. Rosenberg is Mr. Barkany's
19 father-in-law, clearly, Mr. Rosenberg is a bad guy.
20 Mr. Rosenberg had to have been helping BARM -- had to have
21 been helping Barkany in his scheme. And so, therefore, he's
22 not part of the group. Even though this same list that
23 lists the various people that are part of the BARM group
24 lists Rosenberg, no, Rosenberg is not part of the group.

25 Rosenberg, instead, Your Honor, is being sued,

1 because Mr. Belsky says the records that you've given to me,
2 Mr. Rosenberg, I don't buy those records. Those records are
3 incomplete, and therefore, I'm suing you. And they not only
4 sued Rosenberg for fraudulent conveyances -- which they're
5 not suing themselves. But they're also suing Rosenberg for
6 aiding and abetting the fraud.

7 Why, Your Honor? I don't know. That's their --
8 you know, that's nothing (sic). But they've been acting
9 like the 64,000 ton gorilla, whether it's been in
10 approaching charities and saying turn it over or I'll sue
11 you, whether -- actually, to the point, Your Honor, of
12 attorneys going to a charity office and saying turn it over.

13 "I'm going to come back next week. Pay me. Pay
14 me. When are you going to raise funds to pay me, and when
15 are you going to sign a confession of judgment? You owe the
16 money back to Barkany, because Barkany gave you a
17 contribution. And Barkany shouldn't have given you a
18 contribution. It wasn't his money. So you owe the money to
19 Barkany."

20 But, since Barkany owes us the money, we want you
21 to sign a piece of paper agreeing that you owe the money to
22 us, and keep it quiet. Don't tell anyone that you're doing
23 this.

24 This is what has been going on, Your Honor, for
25 three years. And, while this has been going on, you have

1 the lawsuits. By the way, Your Honor, most lawsuits were
2 only brought in 2014. Most lawsuits were only brought in
3 2014 or late 2013.

4 Now, there can be a lot of explanations for that.
5 But, Your Honor, I think, Your Honor -- and this is
6 something for the trustee to look into.

7 I think that the reason a lot of the lawsuits were
8 not brought was because they did not -- they wanted to keep
9 what was going on private, to themselves as long as
10 possible. They wanted to have a head start in terms of
11 getting the assets. They wanted to dispose of the assets as
12 much as they could, as quickly as they could, and I think,
13 Your Honor, they were already benefiting.

14 Ultimately, there was a bankruptcy. They would
15 have grabbed these assets early up in time so that the
16 avoidance period would be gone.

17 And, in fact, Your Honor, in the papers -- I think
18 it was the reply papers that were filed by Locke Lord just
19 yesterday in responding to one of the points we had in our
20 papers, Locke Lord said, "Well, that \$1.2 million capacity
21 (sic) fund (sic) that we received in November -- that's 9
22 months ago. So that's outside the preference (sic) period."

23 And I guess they were kind of anticipating maybe
24 someone will take a fraudulent conveyance. We got that
25 signed back in 2012. So it's outside the fraudulent

1 conveyance period as well.

2 This, Your Honor, has been a scheme. This has
3 been a scheme that's been going on -- well, probably (sic)
4 engaged in the scheme in 2009 and 2010. And a lot of people
5 were hurt by that, Your Honor. And I'm not at all making
6 light of that. Mr. Rosenberg was hurt by that.

7 The other people -- they said they've been hurt by
8 that a lot. But I guess there are law firms that simply --
9 that funds were deposited in some of these deals, and there
10 are law firms that are being sued for tens of millions of
11 dollars because they supposedly did something wrong because
12 their escrow accounts were used.

13 By the way, Your Honor, Mr. Grohman, who lost \$45
14 million -- the \$45 million was wire transferred by
15 Mr. Grohman to various accounts at Mr. Barkany's suggestion
16 or Mr. Barkany's request, without Mr. Grohman seeing any
17 paperwork or any agreements with respect to any of this
18 money. Mr. Grohman, who's a very sophisticated guy and
19 obviously a very wealthy guy, just on his own, without any
20 backup, without any checking, sent \$4 million.

21 Should he have lost that money? Absolutely not.
22 Is it terrible that he lost the money? Absolutely not.
23 But, to turn around -- I'm going to sue the world. I'm
24 going to beat up on everyone. I'm going to beat up on
25 everyone, and I'm going to beat up on Barkany's family.

1 You don't need to beat up on Barkany's family,
2 because I believe, going back to the letter that they sent
3 to the judge June 27th, Barkany has not been forthcoming.
4 Barkany has hidden assets in Ukraine. And Barkany has
5 hidden assets elsewhere. We can't find them.

6 If we really pressure the family enough, if we
7 pressure the family enough, Barkany's going to be
8 forthcoming, and he's going to be pressured into turning
9 over assets. This is what's been going on, Your Honor.
10 This is the picture that's been going on for the last three-
11 and-a-half years.

12 Now, everyone, Your Honor, sitting on -- to my
13 left and, Your Honor, to your right -- none of us, none of
14 us are advocating that this bankruptcy go forward in order
15 to avoid scrutiny. We fully expect and we fully want that
16 this bankruptcy should go forward and there should be a
17 trustee.

18 And the trustee should investigate every single
19 transaction with my client, Your Honor. And I expect it,
20 and my client expects it, and every single transaction with
21 each of the petitioning creditors.

22 And Mr. Mulholland is here. He's going to speak
23 on behalf of Mr. Lowey and his other clients, who are being
24 sued by BARM. And they fully expect and they want a
25 bankruptcy trustee who is fair and who is honorable and who

1 has no prejudices to come in and deal with that.

2 And, Your Honor, Mr. Schulman (ph), who also filed
3 an opposition but he could not be here today -- he filed an
4 opposition, and he made it very clear in his opposition that
5 he represents persons who are prepared to give back money.
6 But they want to give back money under the proper process to
7 the proper person.

8 So, Your Honor, everyone that's pushing for this
9 bankruptcy is not pushing for the bankruptcy for the purpose
10 of avoiding scrutiny. They want proper scrutiny. They also
11 want scrutiny, Your Honor, over everyone.

12 The ones who are trying to avoid scrutiny are the
13 BARM group and because they, Your Honor, don't want to be
14 investigated in terms of what they have done. They don't
15 want to be investigated in terms of how they disclosed these
16 assets over the last couple of years. They want to continue
17 to hold these assets.

18 They want to basically continue to control their
19 game, to sue everyone, to beat up on everyone, and then,
20 they'll decide how the money gets disposed of. They're the
21 ones that want to avoid scrutiny. Not us.

22 So, when they come in here and they say the
23 bankruptcy is just a horrible thing, it's going to put the
24 investigation process to a close, it's going to stop the
25 litigations, it's going to do everything that's bad, it's

1 going to stop us in our efforts, well, it may stop BARM in
2 its personal efforts. Okay? But the process will go
3 forward as it should go forward. And that's, Your Honor,
4 all that we want. That's all that we've advocated from the
5 beginning.

6 This is a process -- Your Honor, I've done this --
7 I've been in this business for a long time, as Your Honor
8 knows. And I know what should happen.

9 If some person comes to me and says I'm the victim
10 of a Ponzi scheme and I looked into it and it seems to be a
11 Ponzi scheme and I gather up enough evidence so that it's
12 clear that there's a Ponzi scheme, first thing I tell that
13 client is let's go into bankruptcy. If you have -- let's go
14 into bankruptcy court.

15 Let's get the petition. Let's get the bankruptcy
16 -- let's get a bankruptcy court involved.

17 That's the way these cases are handled. All these
18 Ponzi scheme cases are handled that way. The cases that are
19 larger than this one, the cases that are smaller than this
20 one. That's the only process that works.

21 It's the only process that is fair to everyone.
22 There is nothing unique about this case, Your Honor, except
23 that you have a group of creditors who were hurt. I agree
24 they were hurt. But so were a lot of other people. And
25 they basically want to get everything back to themselves.

1 They want to get paid. How it comes back, when it
2 comes back, who I should sue, who I can walk away from, who
3 I'll try to cut a separate deal with -- Your Honor, it all
4 -- it's a -- it all smells, Your Honor.

5 It all smells from beginning to end. And I
6 apologize to you as a member of the Court. But this has
7 been just a horrible process that's gone on for years.

8 Now, in terms of the -- I just want to do Borgata
9 separately, Your Honor, because, while -- if Your Honor is
10 of the view that something needs to be done with respect to
11 that claim before Your Honor can rule, obviously, we'll
12 abide by the Court's decision. And Mr. Klausner is here.
13 He represents Borgata. And certainly, he knows the ins and
14 outs much better than I do with respect to their claim.

15 But, if one takes a step back, if one takes a step
16 back and looks at that claim, it is -- that claim is not on
17 the record before this Court, subject to bona fide dispute.
18 It's just not. That claim, Your Honor, is based on a credit
19 request that Mr. Barkany made in the spring of 2012.

20 The credit request, the credit application is
21 Exhibit 1 to the declaration of a person in the collection
22 department at Borgata who filed the declaration in
23 connection with their opposition motion -- their opposition
24 to the motion to dismiss. It's a credit application that
25 Barkany filled out in March, I believe, of 2012, but in that

1 time period. And it's Exhibit 1.

2 When one looks at the credit application -- it's a
3 one-page application -- one of the large (sic) is how much
4 debt do you have. Barkany put in zero. Barkany put in
5 zero. Now, that is, Your Honor, March of 2012. It is a
6 good six, seven months after he signed that confession of
7 judgment to \$58 million.

8 And he comes to Borgata because he wants to gamble
9 again, and he says I have zero debt. So clearly,
10 Your Honor, was Borgata the victim of a fraud by Barkany in
11 March of April of 2012 when they extended \$200,000 or
12 \$300,000 of credit to him, based on he was a prior customer,
13 based on his statement that he had zero debt at that point
14 in time?

15 Now again, Your Honor, had litigation been brought
16 on that confession of judgment in Queens court, in Queens
17 Supreme Court in the summer of 2011, when the confession of
18 judgment was filed, would Borgata have extended the credit,
19 no matter what Barkany put in his credit application? Of
20 course not.

21 They didn't know, because no one knew. No one
22 knew. And so, Barkany gets credit again, Your Honor. And
23 Barkany continues to bet.

24 Now, he came, Your Honor, again in March of 2013,
25 and he asked for an extension of credit. Now, I'm getting

1 an education in that whole area, Your Honor. Really, it's
2 an area I'm not familiar with, until the last few days. But
3 apparently, if you have credit already, you don't need more
4 credit. If for some reason, the casino owes you money, you
5 don't need more credit, right?

6 So Barkany wanted to gamble in March of 2012,
7 literally days before the litigation in Queens was finally
8 filed by BARM and within days of Barkany's arrest in the
9 criminal case. And Barkany says I need more credit. So
10 apparently, they gave him -- you get markers. You get
11 markers. You write out checks.

12 And so, you write out checks to the -- and you
13 don't need checks if the casino owes you money. You only
14 write out more checks if the casino doesn't owe you money
15 but you want to get more credit. So he fills out \$240,000
16 worth of markers. So he's now given \$240,000 of credit,
17 which he proceeds to gamble and lose.

18 But he doesn't pay. And, when Borgata, when
19 Borgata tried to cash these checks, they all come back, and
20 they're all attached to the exhibit. They all come back
21 account closed. Your Honor, I believe that those accounts
22 were closed well before, well before Barkany issued those
23 markers to Borgata in March.

24 Another fraud. Another fraud which would have
25 never happened had everything been publicly disclosed.

1 Borgata was cheated out of \$240,000.

2 And then, Barkany, Your Honor, writes a letter to
3 Borgata in the summer of 2013, the summer of 2013. Now,
4 we're after the criminal case has already been filed.

5 We're after BARM has already sued, and Barkany's
6 writes to two people at Borgata and says, "I'm really sorry.
7 I owe the money. I didn't pay it back. I owe you the
8 money."

9 "I don't have the money to give you now. I'm
10 trying to work everything out. I really hope that, you
11 know, with the help of the Almighty, I'll be able to pay you
12 back in the future."

13 So BARM, Your Honor, files a claim. And Barkany
14 doesn't dispute the claim. As we said in our paper, if
15 Barkany, in his declaration, had disputed that claim, he'd
16 have committed more perjury. What does he say?

17 He says well, you know, there's this forensic
18 accountant, Belsky. And my lawyers -- this is what Barkany
19 says. My lawyers tell me that, according to Belsky, I don't
20 owe Borgata money. Borgata owes me money. If that's all
21 true, then I don't owe Borgata money.

22 I mean, that's just a round about -- it's not
23 true. Okay? And, Your Honor, Belsky did a supposed
24 forensic investigation with respect to Borgata, where, on
25 the face of it, was incomplete information. What do I mean

1 by that, Your Honor?

2 In Belsky's affidavit, he attaches a written
3 request that Barkany wrote to Borgata in 2011, I think it
4 was, saying there's this forensic -- it doesn't say why.
5 There's this forensic accountant that's been reviewing all
6 my transactions with you. And my records are not as good as
7 yours. Barkany admits he doesn't have the record.

8 My records are not as good as yours. Please, you
9 know, speak to this guy, Belsky, and give him all the
10 missing records. Well, you know what? Borgata -- I mean,
11 they didn't know who Belsky was. They didn't know who
12 Belsky was. Why should they turn over their records to
13 Belsky?

14 So Belsky, working with information that
15 admittedly was inaccurate or incomplete, decides to turn, in
16 fact, oh, Barkany doesn't owe Borgata. Borgata owes
17 Barkany. They have incomplete records to begin with.
18 That's the whole basis for this dispute.

19 That is not a bona fide dispute, Your Honor. It
20 can't possibly be, when you have the checks that all
21 bounced, when you have Barkany asking for the extension of
22 credit, when you have Barkany sending a letter in the summer
23 of 2013 saying, "I owe you the money. I'm sorry I did that
24 to you. I really hope to pay you back."

25 And Barkany does not say I don't owe them money.

1 I know I don't owe them money. Not at all.

2 He says simply Belsky says I owe money. So I do.

3 And Mr. Jannuzzi files a piece of paper on Monday saying

4 well, I had a deal for a bona fide dispute. That is not a

5 bona fide dispute, Your Honor.

6 So we have a record before Your Honor that in

7 relying on, Your Honor, is very clear. I know that

8 Your Honor's been inundated with paper. And I appreciate

9 that. A lot of paper. But the record, Your Honor, is very
10 clear.

11 The record is that you've got a situation --

12 everything that I -- I'm going to make a statement now,

13 Your Honor. I believe everything that I said to Your Honor

14 this morning in terms of some resolution (sic) of payer

15 (sic) is completely undisputed.

16 It is undisputed that Barkany came to Locke Lord

17 and some of his creditors in November and December of 2010

18 without counsel, and he submitted to that small group of

19 creditors that he had committed a Ponzi scheme and did not

20 tell anyone else. That is undisputed.

21 And it is undisputed that, over the next few

22 months, he met extensively with Belsky and met extensively

23 with Locke Lord, turned over all his records and turned over

24 all of his assets without anyone supervising, without anyone

25 else knowing about it. It's undisputed, Your Honor, that

1 Locke Lord starting going to charities and saying pay us
2 back. That's undisputed as well.

3 It's undisputed that Mr. Jacob and some of his
4 colleagues drafted the confession of judgment that
5 Mr. Barkany signed and it was signed in August of 2011 and
6 was kept in a drawer for -- the confession of judgment said
7 I owe you \$58 million. That's undisputed.

8 It's undisputed that Locke Lord and Belsky and
9 presumably some others were liquidating those assets all
10 during that time. Also undisputed. All these facts are
11 undisputed.

12 It's undisputed, Your Honor, that as recently as
13 June, the end of June this year, Mr. Jacob and Mr. Wax (ph)
14 sent letters to Judge Wexler accusing Barkany of continuing
15 to lie to them, continuing to be engaged in fraud, and not
16 cooperating and had secreted assets overseas that they
17 cannot find. And it's undisputed, Your Honor, that
18 Mr. Jannuzzi and his co-counsel, Mr. Barkett, responded on
19 June 27th saying, "These guys are protecting (sic) only
20 themselves. These guys are wolves in sheep's clothing," and
21 a lot of other things.

22 And then, it's undisputed, Your Honor, that back
23 to the first time on June 30th, a substantial piece of paper
24 listing assets worth tens of millions of dollars were all of
25 a sudden supplied by Shalom Jacob to Judge Wexler and saying

1 well, Jannuzzi said they're worth \$32 million. We say it's
2 worth \$22 million.

3 And it's also undisputed, Your Honor, that
4 Mr. Jacob has said on more than one occasion, "You owe your
5 primary obligation to my creditor, my creditor." No one
6 else's creditors. My creditors.

7 I believe, Your Honor, that's pretty much in one
8 of either Mr. Wax's letter or Mr. Jacob's letter to
9 Judge Wexler. They make it plain that they're representing
10 their creditors and their creditors only.

11 So, all of a sudden, now two-and-a-half years,
12 three years down the road, now they're representing
13 everyone? It doesn't work that way, Your Honor. It doesn't
14 -- it would have worked that way even had they not done
15 everything that they've done in the last few years.

16 It certainly doesn't work. So what you've got,
17 Your Honor -- oh, I just want to leave Your Honor very
18 briefly with this notion and the suggestion that Mr. Barkany
19 is engaged in major, major efforts to come up with the money
20 and with the oil fields and all these things.

21 Your Honor, fortunately, within the framework of
22 bankruptcy -- and actually, we've both been involved in
23 these types of cases. There is a provision in the
24 bankruptcy code that can work for someone that has business
25 and has future business that can help pay back his

1 creditors, her creditors, its creditors. And that is
2 Chapter 11.

3 And, in Chapter 11, as we know, there is a whole
4 procedure. There is a procedure. If the debtor wants to
5 put together a plan to pay off creditors, you put together a
6 plan. You put together a disclosure statement. It's
7 subject to Court scrutiny. It's subject to creditor
8 scrutiny.

9 If Mr. Barkany really believes, really believes --
10 and I hope it's true -- that he has ongoing business and
11 future business that is going to result in so much in the
12 way of profits, notwithstanding his very checkered past,
13 that he can pay back all creditors, great. He has the
14 absolute right, as Your Honor knows, to take this Chapter 7
15 case and voluntarily convert it to a Chapter 11.

16 Now, Your Honor, it may very well be that, in the
17 context of Mr. Barkany with his background, if he called for
18 a Chapter 11, a Chapter 11 trustee would be appointed. And
19 that's perfectly fine. And there's nothing wrong with that.

20 And, Your Honor, I've dealt with cases with Exxon
21 Oil (sic) and (indiscernible - 12:48:33). The debtor, who,
22 for whatever reason, didn't deserve to operate his business
23 by himself going forward because of the things he'd done in
24 the past, worked together with the trustee. And we had
25 great success.

1 So that's something that can be accomplished,
2 Your Honor. There is nothing, there is nothing that can
3 possibly be accomplished by the BARM group, that can
4 possibly be accomplished in the criminal case that cannot be
5 equally accomplished and, frankly, much more effectively
6 accomplished within the framework of the bankruptcy.

7 There is nothing within all the principles of
8 bankruptcy, with the way the bankruptcy case and the
9 bankruptcy code of order (sic) that -- it all clashes with
10 the criminal process. It's just not the case.

11 So they can suggest it, but it's absolutely
12 without basis. There is no basis for it.

13 If Mr. Barkany wants to proceed in Chapter 11 or
14 he wants to proceed somehow in the Chapter 7 type
15 proceeding, right, he can do that as well. But there is
16 nothing, nothing within the framework of a bankruptcy case
17 that would preclude Mr. Barkany from working on an
18 arrangement to pay back his creditors.

19 Now, Locke Lord would be because then they're
20 going to be looked at as well. And, as I said, I think
21 there's going to be a lot of scrutiny that needs to go on
22 there. And, because of that, Your Honor, they may be angry.
23 And I think this is what Mr. Jannuzzi's concerned about.

24 They're going to get angry, and they're going to
25 say you know what? Mr. Barkany -- he really was rooting for

1 this bankruptcy, and he was working behind our back for this
2 bankruptcy. And therefore, we're going to urge the U.S.
3 Attorney to stop this process now and maybe (sic) go forward
4 with the sentencing.

5 Your Honor, that may not be true, and that may not
6 happen. And I can't really comment on that. But I know,
7 Your Honor -- I know from all my experience that that,
8 whether it's a little true, whether it's a lot true, whether
9 it's not true at all, but that's not a consideration that
10 ultimately can determine this Court's decision in terms of
11 the outcome of this case.

12 This case, based on all of the facts and the
13 unrebutted record already here -- and it's all unrebutted.
14 It's all unrebutted -- is so overwhelming in proving the
15 need for an immediate bankruptcy case. This case should not
16 remain out of bankruptcy another day.

17 This case is literally, this case is literally
18 three years late in getting started. And, as I said, I
19 strongly suspect, Your Honor -- I would love to be proven
20 wrong. And, if I am wrong and I am (indiscernible -
21 12:51:07), I apologize to everyone (sic).

22 But I strongly suspect, Your Honor, that, if
23 Your Honor would attempt (sic) an order of relief today and
24 we would go forward in bankruptcy today and Locke Lord would
25 be contacted tomorrow or the next day and say okay, you guys

1 are holding \$24 million that you got and no one knew about
2 it, you've been liquidating it. Turn it over to the trustee
3 so we can start administering that in the context of the
4 overall bankruptcy case.

5 I strongly suspect that Locke Lord will tell the
6 trustee, "No, that's our money. We got that money. It was
7 a payment of our debt, and it's outside the preference
8 period and tough. And if the estate wants that money,
9 you're going to have to come and get it from us."

10 And I think that says it all, Your Honor. That
11 says it all.

12 If that's not where Locke Lord's coming from, then
13 they should be perfectly, perfectly happy to go forward with
14 the bankruptcy, because Mr. Jacob is a bankruptcy attorney.
15 I believe Mr. Wasserman knows something about bankruptcy as
16 well. They know -- they know that everything that needs to
17 be done here can be done much more effectively in bankruptcy
18 than outside of bankruptcy.

19 And finally, Your Honor, just one more point
20 because they make this -- if any creditor, whether it's the
21 BARM creditor group, whether it's the Canadian Northern
22 Creditor Group, the group represented by Mr. Schneck, if any
23 of them had claims against any party, whether it's my
24 client, whether it's Borgata, whether it's any of the other
25 defendants, which they believe are individual claims as

1 opposed to estate claims, right, because they were some type
2 of tort committed allegedly against their client directly,
3 so it would be a claim, whether it's a constructed trust,
4 whether it's for unjust enrichment, whether it's because of
5 defalcation, whether it's (indiscernible - 12:52:49). If
6 any claim that's an individual claim is not in those, that's
7 not a trustee claim.

8 So they would come into court and they would say,
9 Judge Scarcella, we've got an individual claim. This is
10 what it is. We'd like you to lift the stay so that we can
11 pursue our individual claim against whomever it may be and
12 that's part of the -- that's outside of the bankruptcy
13 process, but that's dealt with in bankruptcy as well.

14 So there will be no one, Your Honor, there will be
15 no one in the slightest prejudiced. No one prejudiced by
16 putting this case into bankruptcy. That is where it
17 belongs.

18 To the extent that people want an unfair advantage
19 by the case staying outside of bankruptcy, well, you know, I
20 understand that people want unfair advantages, but that's
21 not what bankruptcy is all about.

22 So, Your Honor, we would urge -- and I know I've
23 spoken for a long time, but we would urge -- believe me,
24 Your Honor, this is stuff that these -- that the people on
25 the left have been wanting to tell someone, literally for

1 the last three years plus and we believe, Your Honor, that
2 this case is right for bankruptcy, that the record is clear
3 and that an order for relief should be entered today. Thank
4 you.

5 THE COURT: Mr. Kirshenbaum, thank you.

6 Does anyone else on behalf of the petitioning
7 creditors wish to be heard?

8 MR. KLAUSNER: Judge, Mr. Kirshenbaum, who is not
9 a gambler, did a fairly credible job explaining.

10 THE COURT: I did get the gist that this is all
11 new to him that he's not a gambler. He mentioned that, I
12 think, twice, so it's clearly on the record.

13 UNIDENTIFIED SPEAKER: Thank you.

14 MR. KLAUSNER: Your Honor, to the extent that
15 you'd like a little elucidation, I can provide that, but the
16 gist of what Mr. Kirshenbaum said is correct. Borgata
17 clearly does not owe Mr. Barkany any money. Mr. Barkany
18 owes the Borgata \$240,000. The Borgata has the records to
19 demonstrate that without question.

20 And I just wanted to address one item. Borgata
21 has apparently been accused of not cooperating with the
22 forensic accountant. What the forensic accountant doesn't
23 know is that there are a whole host of rules and regulations
24 under the New Jersey Casino Control Act, the casinos must
25 abide by. And one of them is that their credit people

1 aren't allowed to talk to outsiders.

2 Now, the forensic accountant never contacted
3 Borgata's general counsel. BARM and the forensic accountant
4 never contacted me. Nobody ever asked us for any additional
5 records. There was an email to somebody in the credit
6 department at Borgata, who quite frankly, is not authorized
7 by law to talk to him. And she sent him an email that said,
8 this is as much as I'm allowed to give you by law. Here's
9 what we have, okay, and the matter ended there. There was
10 no further communication, there were no further requests
11 from counsel or through me, but we do have the records.

12 What the forensic accountant failed to take into
13 account -- one of the things is cash that Mr. Barkany can
14 transfer money before he goes to gamble. It's called a
15 front money deposit. He makes a deposit, basically in
16 trust, it's held by the casino. He goes to the casino. He
17 sits down at a table and he says, I'd like to make a front
18 money withdrawal, let's say \$100,000 he sent before he
19 arrived.

20 He sits down at the table. He says, I'd like my
21 \$100,000. They give him \$100,000 in chips. He gambles, he
22 loses \$50,000 and he says, you know what, I'm done. He
23 cashes his chips, he's got \$50,000 in his pocket and now he
24 leaves.

25 The forensic accountant didn't take that into

1 consideration, the cash component of gambling that he could
2 transfer this money to Borgata, yet leave with some of it or
3 most of it. And the transactions can all be looked at that
4 way.

5 Unfortunately we did not have time to go through
6 every transaction. Mr. Barkany has over 700 individual
7 transactions with Borgata. Most of them are credit
8 transactions.

9 Mr. Kirshenbaum used the term marker. What that
10 mean is if you have a credit account at a casino and you sit
11 down at a table and you decide you don't want to come with
12 any money, you don't want to bring money and you don't want
13 to send money in advance and you have a credit account, you
14 can sit down and you would say, I would like a marker for
15 \$10,000.

16 What the casino does is they check your credit
17 make sure you have enough available credit and if you do,
18 somebody comes over and hands you a check. The check is
19 drawn on your own bank account. You sign it. The casino
20 holds it as security. That's what a marker is.

21 The casino requires, within a certain period, 45
22 days for checks over \$5000, if you don't redeem the marker,
23 in other words, you don't pay back the credit that you
24 borrowed, they're required to deposit it in satisfaction of
25 the marker and that's what happened in this case.

1 He took out \$240,000 worth of markers and all the
2 checks bounced. That's the basis of the claim. Before
3 then, they were even. Mr. Barkany didn't owe the casino any
4 money and the casino didn't owe him any money. Thank you.

5 THE COURT: Thank you.

6 MR. MULHOLLAND: Judge, would you like to hear
7 from the interested creditors at this point?

8 THE COURT: Yes. I would like to hear from the
9 interested creditors.

10 MR. MULHOLLAND: The few comments I have, Judge, I
11 just feel like this is where they belong. I'd like to
12 underscore what Mr. Kirshenbaum said in his reference to
13 Madoff. In the days after Madoff hit the news line December
14 10, Friday, I believe it was.

15 I had the opportunity to file the very first claim
16 against Madoff here on Long Island and it was a private
17 action, an isolated action and within days I was in touch
18 with the lawyers in the city who were properly ramping up
19 the bankruptcy proceeding. And I quickly deferred to them,
20 because I understood that my isolated action did not belong
21 and I saw the writing on the wall. Madoff had to be taking
22 up under the umbrella of a single unified action.

23 And because of my involvement there, it was about
24 a year later that I had the opportunity to talk to a group
25 of some 50 plus investors who were victimized by the so-

1 called Long Island mini Madoff, Nicholas Cosmo (ph). I knew
2 from what happened in Madoff that what had to happen there,
3 that case was inescapably drawn into a bankruptcy framework.
4 I knew it. My clients wanted to bring a private right of
5 action, a private action rather, a fraud action. I knew
6 what had to be done. I saw the writing on the wall where
7 that case was going. It had to be.

8 And of course, today, the Agape bankruptcy
9 proceeding remains pending here. It started in front of
10 Judge Eisenberg. Mr. Silverman, who was in court this
11 morning, continues to prosecute those claims as they must be
12 in one unified proceeding.

13 So Mr. Kirshenbaum said that he thought some of
14 the listeners here today were growing more concerned with
15 what they were hearing today. I've learned a bunch in the
16 past hour and a half.

17 And I can say I came to court this morning, I
18 would say that my level of concern for my clients was
19 disturbed. Disturbed to think that we might be targeted by
20 an isolated self interested group, rather than taken up in
21 the context of a bankruptcy proceeding, but after what I've
22 heard, Judge, I've gone from concerned to horrified.

23 I would be horrified to think that I'm going to be
24 subject to the vagaries of private procedures that BARM has
25 created and that's where I'm going to get my finality. My

1 clients are four individuals, Judge, and they invested some
2 \$5 million in '08, '09. And Barkany has admitted publicly
3 that not only did he run Ponzi scheme, but he also ran a
4 bunch of legitimate investments in bona fide underlying
5 assets, real estate opportunities for the most part.

6 My clients participated, exclusively in those
7 early years, in legitimate, bona fide, actual assets that
8 they visited, that they saw on earth. And so they are now
9 targeted in this claw back action where they're treated as
10 participants in the Ponzi scheme, so again, to underscore
11 what Mr. Kirshenbaum said, we welcome the opportunity to
12 have the claims against us scrutinized in this context.

13 We don't hide from this. We don't run from this.
14 This is where we want to be. This is where the entire story
15 of Barkany belongs and we are completely horrified at the
16 notion that we would have our situation looked at anywhere
17 else.

18 Judge, I think Mr. Kirshenbaum delivered a very
19 compelling message. I'll answer any questions on behalf of
20 my clients, Jonathan Lifeler, his parents, Murray and Sarah
21 Lifeler, and Ed Lowey, they are legitimate investors and we
22 want this story taken up in this Court, Judge.

23 THE COURT: What's the total amount of claims that
24 your clients hold?

25 MR. MULHOLLAND: We have contingent claims of 5

1 million, because Mr. Wasserman and his crew are looking to
2 take 5 million from my clients of principle that they
3 invested and the minute that we are forced to disgorge it in
4 their state court proceeding, BARM against (indiscernible -
5 1:02:01), we will immediately become \$5 million creditors of
6 Gershon, because that was real money that we put in and if
7 it's taken from us, we want it back. And so as contingent
8 creditors, I understand we're -- as contingent claim
9 holders, I understand we are claimants for purposes of this
10 bankruptcy and with that standing we oppose the motion to
11 dismiss and we ask you to keep here, Judge.

12 THE COURT: Thank you.

13 MR. WARREN: Do you want to hear more from the
14 creditor or is it the interested parties?

15 THE COURT: Sure. That's fine.

16 MR. WARREN: I'll be very brief, Your Honor.

17 Edward Warren of Voute Lohrfink Magro, McAndrew. I
18 represent Zucker and Kwestel LLP and Steven Kwestel. These
19 are the attorneys who were sued in the Nassau action that
20 was commenced in November of 2011. So we've been rattling
21 sabers with the Barkany Ponzi scheme for quite some time.

22 The only thing that I would like to put before the
23 Court, not on the threshold issue -- I'm really not smart
24 enough to address that, I'll be honest -- but the issue of
25 whether or not to exercise discretion. We have named

1 Barkany as a third party defendant, because my clients are
2 accused of aiding and abetting his fraud, so it's necessary
3 that the fraudster be part of that.

4 Mr. Barkany won't talk to -- won't be deposed. He
5 takes the Fifth, even though he's already pled guilty to
6 defrauding one of my plaintiffs, he still won't come in to
7 be deposed. He won't give us information. I subpoena BARM
8 and another entity, Bar-cred (ph), they won't respond to the
9 subpoenas. They say they have nothing to do with it. I
10 have no idea who is collecting money, where is it going.
11 Today was the first time I heard what the mechanism was out
12 of all these years of litigation, today was the first time.

13 And yet, even though \$22 million has been
14 collected, out of \$58 million, my clients are still being
15 pursued for \$47 million with the remaining claims. So we
16 need to be in one place where all of us gets addressed at
17 one time.

18 It also begs the question that no one is answering
19 to me is who is minding the minders? Who is approving Mr.
20 Belsky's fees? Who is approving fees for Locke Lord
21 themselves? Where is the oversight for that? That is the
22 only thing that I would like to put before the Court today.
23 Thank you for your time.

24 THE COURT: Thank you.

25 Mr. Jannuzzi, have you reviewed the documentation

1 that Borgata has demonstrating or alleging demonstrating
2 that Mr. Barkany owes the money, \$240,000 I think is the
3 number that was (indiscernible - 1:04:26) about.

4 MR. JANNUZZI: I have not seen that documentation,
5 Judge, and I don't know that I'd be qualified to review it
6 and know that I was even seeing something that mattered to
7 me.

8 Our argument has been -- and it was correctly
9 stated and it's exactly like this in our papers. We were
10 told by a forensic accountant. That person is obviously
11 qualified, that person had the consent of my client to get
12 all the records that the Borgata had on him and to review
13 those records.

14 From looking at those records, he came up with the
15 figures, the forensic accountant came up with the figures,
16 that there's a million dollar discrepancy.

17 The documents that could have cleared that up have
18 never been turned over as we stand here today. So from
19 where I stand, it is not our argument that this money is
20 owed or not owed, it's that a forensic accountant has raised
21 an issue, somebody who is qualified, who has looked at
22 records. We have adopted that his position is significant
23 from the standpoint that if he is correct, it is a \$1.3
24 million swing to our creditors.

25 THE COURT: But when you say \$1.3 million swing,

1 is his basis that yes, there is a claim by Borgata, but
2 Barkany has a counterclaim of 1.7 million, so then when you
3 offset at the end of the day, the dollar amounts, Barkany
4 thinks that Borgata after the offset would owe me \$1.3
5 million?

6 MR. JANNUZZI: My understanding, Judge, is that
7 the net figure, the net discrepancy is \$700,000. How Mr.
8 Belsky arrived at that figure, I'm not sure, but the counsel
9 for BARM I'm sure is prepared to address that issue.

10 THE COURT: But again, the issue being is it a
11 counterclaim that Belsky believes exists or is his claim
12 that there's absolutely no money owing to Borgata, despite
13 the records that Borgata will have and ultimately if we
14 address the threshold issue will be put into evidence?

15 MR. JANNUZZI: I say that it is a issue that the
16 Borgata is not a bona fide creditor. There's a bona fide
17 dispute and it's not in the nature of a counterclaim. It's
18 that we never owed you 240, so you never had a credit for
19 that and in fact, you owe us a million and seventy. But our
20 information is based on an accountant's review, not our own,
21 but we are adopting that argument today for purposes of
22 standing.

23 THE COURT: So that the threshold issue that we
24 have to deal with is whether or not there is a bona fide
25 dispute, legal or factual, as to liability or amount. And

1 you had said earlier that the only petitioning creditor's
2 claim that you are contesting with respect to the bona fide
3 dispute is the claim that is asserted by the petitioning
4 creditor, Borgata?

5 MR. JANNUZZI: That's absolutely correct, Judge.

6 THE COURT: So that we can deal with that
7 threshold issue because that's sort of the gate keeper to
8 come into this bankruptcy court in a certain respect, so
9 that we can deal with the bona fide dispute that you have
10 raised with respect to Borgata in one of three ways and
11 everyone should think about what's the most expedient way to
12 do this.

13 The Court could take it under submission and look
14 at all of the papers. The Court could hold an evidentiary
15 hearing at which we will take testimony, we'll take
16 documentary evidence from Borgata, we'll take testimony and
17 any documentary evidence from Mr. Belsky and BARM and the
18 debtor on this particular issue, the threshold issue. It's
19 a single, narrow issue to be determined.

20 Or lastly, if you all think that you're absolutely
21 correct and there's no material fact in dispute, you can
22 each file a cross motion for summary judgment, we'll make it
23 returnable and we'll make our decision, but as I understand
24 it, that is the narrow issue with respect to this
25 involuntary petition.

1 MR. JANNUZZI: With respect to the threshold
2 issue, yes.

3 THE COURT: That's correct.

4 MR. JANNUZZI: Yes. That is correct. I don't
5 know what other counsel's position is, but my client would
6 ask for an evidentiary hearing on this, absolutely.

7 THE COURT: And I ask the petitioning creditors,
8 we can set this down for an evidentiary hearing. And again,
9 this is the threshold issue as to whether or not we have
10 three petitioning creditors that are eligible to file the
11 involuntary bankruptcy against Mr. Barkany.

12 MR. WASSERMAN: Your Honor, it has been our
13 position that there's a bona fide dispute with respect to
14 Joseph Rosenberg and Kessler so we believe those are
15 threshold issues that should be addressed as well.

16 THE COURT: We can address all three. I'll ask --
17 I'll hear from Mr. Kirshenbaum, but if we're going to
18 address the threshold issue with respect to Borgata in the
19 very same proceeding, we can address the threshold issue
20 that you are contesting whether or not there is a -- whether
21 or not there is a bona fide dispute with respect to the
22 claims that have been asserted by the other two petitioning
23 creditors.

24 MR. KIRSHENBAUM: Your Honor, the law on this is
25 very clear, that only the petitioning -- that only the

1 debtor has the right to challenge the bona fide claims of
2 the petitioning creditors, not any other creditors.

3 That law has been very clear since 1938. We
4 talked about this at length in our papers. Prior to 1938,
5 any creditor could challenge the involuntary petition. The
6 law was changed in 1938 to make it clear that only the
7 debtor could challenge the involuntary petition and the
8 basic elements that of course comprise the involuntary
9 bankruptcy, which is that if you're dealing with a debtor
10 with more than 12 creditors, that you have at least three
11 creditors whose claim exceed the threshold of 15,000 and
12 change and that the debtor is not paying debts in the
13 ordinary course as they become due.

14 And the case law, Your Honor, is also clear -- is
15 also clear that what the creditors cannot do directly, they
16 cannot do in a roundabout way. So meaning that if since the
17 creditors opposing the involuntary petition cannot challenge
18 the claims as not being -- as being subject to a bona fide
19 dispute, they cannot in the context of a motion to dismiss
20 or under 305 or 707 raise that issue, because they would
21 simply be allowed to do indirectly what they can't do
22 directly. The case law on that is very clear.

23 One of the cases, Your Honor, that sticks in my
24 mind always in terms of the citation is the Market XT
25 bankruptcy case that Judge Gropper wrote on in great length

1 only because that was a case that I was involved in on
2 behalf of the petitioning creditors, but there are many and
3 we cite them all.

4 So, Your Honor, we can spend a lot of time on this
5 because you're dealing with transactions and you're dealing
6 with years and years of business, right. I would
7 respectfully say, Your Honor, that the truth is Barkany has
8 not put the claim of Borgata into bona fide dispute and
9 therefore, there's no basis to keep this case out of
10 bankruptcy as we stand here and sit here today.

11 But if Your Honor is prepared to give Mr. Jannuzzi
12 that measure of latitude notwithstanding the record which is
13 before Your Honor, which is the -- with the checks that were
14 written on the account that was closed and therefore were
15 not honored and Mr. Barkany's letter saying, I owe you the
16 money, but I can't pay it back and I hope to pay it back in
17 the future.

18 And notwithstanding that you're prepared -- you're
19 view is you should give Mr. Jannuzzi the latitude of
20 challenging the bona fide nature of the Borgata claims and I
21 -- Your Honor really urge the Court and I think on very,
22 very solid grounds and consistent with all the case law and
23 the statute and the -- and the committee notes, the advisory
24 committee notes to the statute and to the rules that it be
25 limited to Borgata and that we take that up quickly and that

1 it, frankly, it's a hearing that Mr. Jannuzzi has to hold
2 because it's only the debtor's challenge. It's not
3 Mr. Wasserman's challenge. It is not Mr. Wax's challenge.
4 It's the debtor's challenge. Only the debtor can challenge
5 that and only the debtor has standing to challenge that.

6 UNIDENTIFIED SPEAKER: Your Honor, may we be
7 heard?

8 MR. KIRSHENBAUM: Mr. Jannuzzi can put on any
9 evidence he wants. Your Honor, I would -- I asked Mr.
10 Barkany about the Borgata claim at his deposition and he
11 took the Fifth. And, Your Honor, we believe that that's an
12 additional basis to base -- you can challenge a claim. You
13 can't use the Fifth Amendment as both the shield and the
14 sword. And so therefore, Your Honor, we would expect if
15 Your Honor is going to hold a hearing that we have the
16 opportunity to examine Mr. Barkany about that and Mr.
17 Barkany can ask the Court for immunity on that, because,
18 Your Honor, I firmly believe that if Mr. Barkany is asked
19 the question directly and Mr. Barkany cannot hide behind the
20 Fifth, Mr. Barkany would say, yes I wrote those checks. I
21 took out that credit. I owe Borgata the money. What I
22 wrote to Borgata in the summer of 2013 is accurate. I owe
23 Borgata money. And that's the end of the story, Your Honor.

24 If Borgata is owed one penny, it's the end of the
25 story, because the other two creditors, obviously, the

1 numbers are in the hundreds of thousands if not the
2 millions.

3 So, Your Honor, I think if we're going to conduct
4 a hearing, it has to -- I respectfully ask Your Honor that
5 it be done on that basis with Mr. Jannuzzi challenging the
6 claim, Mr. Jannuzzi representing Mr. Barkany, not Mr.
7 Wasserman, not Mr. Jacob, they've been at Mr. Barkany's
8 (indiscernible - 1:14:20) for years. And Mr. Barkany,
9 frankly, is scared to death of them because he feels that
10 they're the ones that basically in a snap can basically snap
11 their fingers and he'll be behind bars.

12 That may be true, Your Honor, it may be not true.
13 I'm not suggesting it's true, but I think given the history
14 here that's happened over the last number of years, I think
15 that's really the psychology that you're looking at and it's
16 understandable. It is understandable. They've been calling
17 the shots. They've been directing him now for years and so
18 it's a hearing that either Mr. Jannuzzi or Mr. Barkany has
19 to hold, not them and let them put on whatever evidence they
20 want in terms of the opposing -- the claim of Borgata and
21 subject, Your Honor, to speaking to Mr. Klausner who is of
22 course Borgata's attorney, my view is that we should hold
23 this hearing as quickly as is convenient for Mr. Klausner
24 and the Borgata witnesses and let's get done with this.

25 Because we need to be in front of Your Honor. We

1 need to start getting order and honesty and integrity and
2 transparency to a process that has been completely opaque
3 and completely hidden from everyone since November of 2011 -
4 - 2010.

5 MR. JANNUZZI: Judge, if I hear --

6 THE COURT: Wait, just one moment. I -- thank
7 you, Mr. Kirshenbaum. I am familiar with the cases that you
8 are referencing with respect to who can contest the
9 involuntary. BARM, I think, is about to tell us that they
10 think they fall under some exception with respect to that.

11 MR. KIRSHENBAUM: Uh-huh.

12 THE COURT: So I will listen to counsel, but one
13 question for Mr. Jannuzzi and that is that presuming that
14 Borgata can meet the initial burden of presenting prima
15 facie evidence that there is a claim that is owed to the
16 Borgata, how do you propose now, because the burden shifts,
17 how do you now propose to sustain your burden of proof that
18 the claim isn't a bona fide dispute?

19 MR. JANNUZZI: Okay. Well, Judge, again, if I'm
20 having that hearing, I'm calling David Belsky as my witness
21 and Mr. Belsky could explain to the Court how he reached the
22 conclusions he reached and then the Court will decide it
23 accordingly. But so that it's clear and for the second
24 time, I've heard my client described as someone who is
25 intimidated by Locke Lord and BARM and that's just not true.

1 Our concern is that we believe -- when I say we,
2 myself, the criminal attorney representing Mr. Barkany and
3 Mr. Barkany -- that the administration of this bankruptcy,
4 the 12 civil suits that are being pulled in and the claw
5 back action that Mr. Kirshenbaum has forecasted will be
6 forthcoming and the expenses that are going to be involved
7 with the trustee and the trustee's counsel will take money
8 away from the ever high target of paying back the money that
9 my client needs to pay back for purposes of restitution.

10 And that's the second part of this motion, Judge,
11 that we don't believe this is in the best interest of the
12 debtor or the creditors, that this will turn into a mushroom
13 of litigation, that expenses will be eaten up that will
14 exceed the amount that my client can pay back considering
15 restitution.

16 Already today, there's a dozen attorneys in the
17 room. I'm sure the legal fees are over six figures and
18 they're only going to grow from here and we haven't even
19 started yet. So there's two arguments before this Court and
20 the threshold issue for sure. My client's not intimidated,
21 sir. My client has a goal. The goal is to pay people back
22 and this bankruptcy puts him further and further from that
23 goal and that's our main objection to this bankruptcy.

24 THE COURT: Is your saying that you're further and
25 further from the goal because you're concerned about the

1 administrative expenses that would be incurred in a
2 bankruptcy?

3 MR. JANNUZZI: I'm saying all of the expenses,
4 Judge. Because if there's a claw back on that \$22 million
5 for example, right, and that goes into the bankruptcy
6 estate, some of that money is going to be used for
7 administration expenses associated with this bankruptcy.
8 I'm sure of it. And there's going to be expert witnesses,
9 there's going to be accountants. There's going to be all
10 kinds of things that are going to be drawing from that pool
11 of money. And when that happens, the figure that my client
12 needs to make for purposes of restitution grows
13 geometrically and that's why I oppose this bankruptcy,
14 together with the fact that we've been told -- and I cannot
15 ignore whether it's accurate or not -- that there's a
16 discrepancy with respect to this and it needs to be put
17 before the Court in an evidentiary fashion so that Your
18 Honor can properly rule on it.

19 All we've said is that we were told this has
20 happened. That's all we've said in our motion papers, but
21 that's significant and it's a significant amount of money
22 and it needs to be discovered, it needs to be looked at. If
23 Mr. Belsky is correct, it's a million three more for our
24 creditors. If Mr. Belsky's wrong, then that one argument we
25 have related to threshold is defeated, but that needs to

1 take place, Judge. Thank you.

2 THE COURT: Thank you.

3 MR. WASSERMAN: Mr. Kirshenbaum spoke for roughly
4 an hour and a half. I won't speak that long, but I will ask
5 the Court to show the same patience with me as it showed
6 with Mr. Kirshenbaum.

7 At some point, I was waiting for Your Honor to
8 suggest that Mr. Kirshenbaum be sworn in as a testifying
9 witness.

10 THE COURT: I look upon statements from Mr.
11 Kirshenbaum, Mr. Jannuzzi and from you as just pure
12 argument. It's not evidence. I'm not making any findings
13 whatsoever. The only way I'm going to make any findings is
14 based upon admissible evidence. I'm just trying to get an
15 understanding of the case, an understanding of the party's
16 positions.

17 I have one group that feels that the collective --
18 the collective nature of the bankruptcy process with a
19 radical distribution and scrutiny would benefit all
20 creditors. And then I have this side of the room, which is
21 to my left, your right, this side of the room saying that
22 you would prefer the preference is in the best interest of
23 creditors is this continuing of this out of court work out
24 or out of court recovery, (indiscernible - 1:20:19) recovery
25 program. So I'm just trying to get an understanding from

1 the parties as to where things are and how best that we can
2 all get to what I believe would be the same end game.
3 Everyone wants to get paid.

4 This group who feels they were defrauded wants to
5 get paid. Your group who feels they were defrauded wants to
6 get paid. So there needs to be the appropriate exit
7 strategy.

8 This group, Mr. Kirshenbaum and the others on the
9 petitioning creditors, they feel that exit strategy is
10 better suited in a collective proceeding in bankruptcy.

11 You, on the other hand and the debtor, on the
12 other hand, feel that the out of court asset recovery
13 program works better.

14 So I'm not -- I don't want you or anyone else here
15 to think that I'm making any findings whatsoever or coming
16 to any conclusions. I'm just getting the background and
17 then we need to address the threshold issue as to whether or
18 not the petitioning creditors were eligible to file the
19 involuntary.

20 MR. WASSERMAN: I appreciate that, Judge.

21 Mr. Kirshenbaum spoke for an hour and a half
22 without interruption. I spoke for 30 seconds, so I'm going
23 to continue.

24 You cannot sit there and listen over and over and
25 over again, without it affecting your judgment, Mr.

1 Kirshenbaum saying, as far as I know or I believe and then
2 what follows is cast as fact. Most of what Mr. Kirshenbaum
3 said is blatantly false. It's an untruth. I don't suggest
4 for a minute that it was intentional on his part, but yet
5 time and time again, in the first 45 minutes he stopped
6 doing it after the first 45 minutes, but it was, as far as I
7 know, and then he would state something as if it were a
8 fact.

9 There are a couple of those facts which we need to
10 look at because I do think they are important. First of
11 all, how much is Joseph Rosenberg claiming?

12 In the petition he says 160,000. Mr. Kirshenbaum
13 said he's owed a million. The record reflects at times he's
14 thought it was 800,000, 850,000. It's impossible on the
15 record that we have, based on the petition, whatever
16 documents have been submitted by the petitioners to
17 determine how much is Mr. Rosenberg claiming? And in fact,
18 in the petition itself it says 160,000 minimum. That's not
19 a number. That's a range.

20 In addition, he says it's exclusive of the money
21 owed by Gershon Barkany's other entities, so based on the
22 petition and the record before this Court to date this Court
23 has no idea how much Joseph Rosenberg is owed.

24 What the Court does have, whatever the source of
25 it is, what the Court does have -- and they talk about

1 transparency, they're not trying to hide anything. They
2 want everything on the table. They want the sun to shine.
3 Let's test that. You have a forensic accountant's
4 declaration in whether he analyzed in excruciating detail,
5 Mr. Rosenberg's claim.

6 In response, you have a sentence repeated a number
7 of times on the bankruptcy petition, 160,000. In the
8 attachment, it says a minimum of 160,000. Let Mr. Belsky,
9 the forensic accountant testify as to whether Joseph
10 Rosenberg is owed anything and if so, how much. Because
11 based on the record before Your Honor, as we sit here today
12 -- as I stand here, as you sit -- there's a bona fide
13 dispute as to whether Mr. Rosenberg is owed anything and if
14 there is liability, what the amount of that claim is.

15 The same thing with respect to Kessler. They want
16 transparency. They want sunshine. They want everyone
17 treated fairly, everything above board. You have before
18 you, Judge, the declaration of Mr. Belsky, who again, after
19 exhaustive analysis and review of documents, undertaking,
20 obtaining documents, interviews, analyzing those documents,
21 creating charts and schedules, Mr. Belsky has determined
22 that the documents do not support Mr. Kessler's claim of a
23 minimum of \$135,000 and may well be inconsistent with that
24 claim.

25 Transparency? Let's have it. Let's have a

1 hearing where you hear the evidence on that, because on the
2 record before you right now, there is a bona fide dispute.

3 Now, let's turn to Borgata. I've got it as three
4 different names here, but I think we've agreed to call it
5 Borgata for convenience. That's a claim of \$240,000.
6 There's a dispute as with the other claims we believe there
7 should be a hearing and hopefully that's what the parties
8 will agree to and if it's an expedited hearing, so be it.
9 This should be resolved as quickly as possible. But it's
10 important when you look at their papers, to understand the
11 confidence or the lack of confidence that they actually have
12 in that claim by the distortions which you heard from
13 counsel and which are in their papers.

14 And specifically I refer to their brief where it
15 says, Mr. Barkany specifically admitted -- specifically
16 admitted the existence and amount of liability. That's at
17 page 2 of their brief.

18 And in making that statement, they rely on a
19 7/26/13 email from Gershon Barkany to the Borgata, to a D.
20 Brown. And that's Exhibit G to her affidavit, her
21 declaration.

22 And in that declaration, Mr. Barkany says in
23 relevant part, I have a personal interest in taking care of
24 my obligation with your company, not only because I owe the
25 money -- and then he goes on.

1 MDTC, the Borgata argues -- based on that email --
2 the email speaks for itself and is a specific admission as
3 to the liability for and amount of the debt to Borgata. And
4 amount of. That's not true. It wasn't true when Mr.
5 Kirshenbaum said it, when counsel for Borgata said it and
6 it's not true in the brief. The email -- I read it ten or
7 fifteen times figuring they wouldn't say it if it wasn't
8 true and they certainly wouldn't stand up in court and
9 present it as fact to Your Honor, but it's not. The email
10 never talks about the amount. Nowhere does Mr. Barkany's
11 email specify the amount owed.

12 It doesn't stop them from arguing in court, and in
13 their brief that he admitted the amount of liability of his
14 debt, another falsehood. That's why there has to be an
15 evidentiary hearing with respect to that.

16 Now, as to the standing issue. Let's get to the
17 underlying purpose which -- and I'll rely on the
18 petitioner's brief. The underlying purpose for the rule
19 prohibiting a response by a creditor, is that a creditor may
20 have an incentive to protect a preference or to gain some
21 unfair advantage at the expense of other creditors contrary
22 to policy of requiring equal distribution of the debtor's
23 assets among all creditors. That's the underlying purpose
24 of that rule.

25 Now, while I'm not suggesting that this Court

1 cannot look to the case law of a sister district, I do note
2 that for this well settled principle, they do not cite to
3 any authority in this district, nor do they cite to any
4 Second Circuit authority. So it's a universally held well
5 settled principle, but they could not find a case in this
6 district or a second Circuit Decision to cite to.

7 Now, the standing issue -- and Your Honor, I know
8 you put in quotation marks, the exception. I'm sure you
9 didn't mean to minimize the argument --

10 THE COURT: No, I did not mean to minimize the
11 argument. Thank you for recognizing that.

12 MR. WASSERMAN: Okay. The issue of standing is
13 moot here, at least that's our position, because Barkany has
14 also moved for dismissal.

15 The concerns that gave rise to the creditor
16 lacking standing to object in an involuntary bankruptcy
17 petition, they're not present where the debtor himself has
18 moved to dismiss and has joined in the creditor's motion.

19 Now, yes, he didn't join in the entire motion in
20 all respects, but he did join in the motion and we would
21 direct the Court to a case which is not binding on Your
22 Honor, but we do believe is instructive and that's in re:
23 Kenval Marketing Corp., 38 B.R. 241. It's an Eastern
24 District of Pennsylvania case. It's cited in our brief and
25 they attempt to distinguish the case.

1 We believe that's an important case. Here,
2 Barkany has objected and he's joined in our motion, the BARM
3 motion. Moreover, standing for BARM is extremely important,
4 because for all practical purposes -- and they've argued
5 this extensively in their brief, less so in court today, but
6 they over and over again talk about Mr. Barkany taking the
7 Fifth that he can't -- he doesn't answer questions, which he
8 should answer. He doesn't have the right to take the Fifth.

9 In essence, to some extent, Mr. Barkany is
10 paralyzed. Mr. Barkany is between a rock and a hard place.
11 Now, it is not the rock and the hard place that counsel
12 suggests which is somehow Locke Lord controls Mr. Barkany
13 like a puppeteer controls a marionette, that's not the rock
14 and the hard place. He's in the middle of criminal
15 proceedings, jeopardy has attached and his counsel has told
16 him he needs to invoke his Fifth amendment.

17 What does that do as far as Barkany being able to
18 assist the trustee and the Court in connection with his
19 bankruptcy? The problem is he becomes paralyzed. He
20 becomes useless and this is precisely the situation that was
21 faced in, in re; Westerly Development Corp. 141 B.R. 38.
22 It's a Southern District of New York case, 1992. Again, a
23 sister district, it's not controlling here, but it's
24 instructive. There the debtor was effectively paralyzed due
25 to a deadlock between its two shareholders.

1 The Court found that this fact warranted a
2 flexible application of the general standing rules. Here,
3 Mr. Barkany to some extent is paralyzed in his ability to
4 lend effective participation in these proceedings, moreover
5 with respect to the specific issue of whether or not the
6 petitioner's claims are valid and the amount of those claims
7 he is certainly paralyzed.

8 THE COURT: Well, let me ask you a question.
9 You're saying he is paralyzed. He wasn't paralyzed to
10 challenge the Borgata claim is not the subject of a bona
11 fide dispute, why is he so paralyzed that he couldn't
12 challenge the other two petitioning creditors' claims? Mr.
13 Jannuzzi said that with respect to if Borgata satisfied
14 their prima facie case and the burden then shifted to Mr.
15 Jannuzzi, he said that in order to sustain his burden of
16 proof, he would have to have the testimony of Mr. Belsky and
17 not (indiscernible - 1:32:41). So I am trying to understand
18 why was the debtor able to challenge the Borgata claim, but
19 not challenge Mr. Rosenberg and is it Mr. Kessler?
20 Kessler's claim.

21 MR. WASSERMAN: That's an excellent question as
22 with any question Your Honor asks. Here's our response.
23 The Borgata is a stranger to Mr. Barkany. Not only does he
24 claim that he doesn't owe the Borgata any money, but they
25 have absolutely no leverage of any kind over him.

1 Mr. Rosenberg, on the other hand -- and I won't
2 testify here, but we will -- if a hearing goes forward, Mr.
3 Rosenberg will testify and we also have his deposition in
4 his deposition transcript and I believe Mr. Barkany's
5 testimony to some extent. Mr. Barkany, his wife and his
6 children, depend on Joseph Rosenberg, one of the
7 petitioners, for the money they need to survive.

8 Mr. Barkany cannot turn against Mr. Rosenberg
9 because he depends on Mr. Rosenberg to help pay their living
10 expenses, to help pay tuition, to help pay utilities, to
11 help pay other payments without which Mr. Barkany and his
12 family could not survive. They might well be destitute.
13 That's the rock and the hard place.

14 And by the way, that's not a BARM created rock and
15 a hard place. That's the leverage that Joseph Rosenberg has
16 on Mr. Barkany. That's the difficulty here.

17 The other difficulty you have is as counsel -- as
18 Mr. Jannuzzi explained, he can't have Mr. Barkany come in
19 here and testify, even with respect to the Borgata claim.
20 Ultimately, he will have to rely on an independent forensic
21 accountant. He's suggested he will rely on Mr. Belsky.
22 That option is available with respect to that. He has
23 nothing at risk with respect to the Borgata.

24 He can't do the same with regard to Mr. Rosenberg
25 and I don't know whether or not the same is true with

1 respect to Mr. Kessler.

2 MS. LEVINE: On that, I'd just like to add just
3 with all due respect that Mr. Kessler has nothing over Mr.
4 Barkany and in fact, Mr. Barkany has conceded that he owes
5 Mr. Kessler money. There is no standing here to challenge
6 that. The debtor did not challenge it as the Court noted.

7 THE COURT: Thank you.

8 MR. WASSERMAN: Now, we heard moral outrage is the
9 best way to describe what -- how Mr. Kirshenbaum articulated
10 his client's view and the view of the other petitioners and
11 creditors that BARM was acting in secret in the shadows and
12 that we were doing everything possible to prevent disclosure
13 because we didn't want the outside world to know what we
14 were doing. And there are all these horrible of horrors
15 that he attributed to me, my colleagues and my clients with
16 respect to our behavior. And he repeatedly said, we're
17 years late here. We're years late. This should have
18 started years ago.

19 But what he didn't tell you is that at least Mr.
20 Rosenberg was fully versed in what BARM was doing. He fully
21 understood the role that Locke Lord was playing and he was a
22 participant. And this will be evidence at the hearing
23 should Your Honor decide that transparency in the light of
24 day as Mr. Kirshenbaum insists on, will permit, Your Honor,
25 to hear evidence with respect to Mr. Rosenberg.

1 In November of 2011, three years ago, Mr.
2 Rosenberg transferred \$560,000 -- \$560,000 to Locke Lord in
3 satisfaction of certain obligations of Mr. Barkany in
4 connection with the Ponzi scheme which is the subject of
5 this whole dispute. So, Mr. Rosenberg rather than say I
6 should call Mr. Kirshenbaum and get him involved in this
7 because this involves in bankruptcy court, because this is
8 outrageous that BARM is working in the shadows and Locke
9 Lord is conspiring with them.

10 Instead, Mr. Rosenberg -- maybe he did speak to
11 Mr. Kirshenbaum, as far as I know, he did speak to him
12 because Mr. Rosenberg, like (indiscernible - 1:37:28) is a
13 very intelligent man and would not have done something like
14 this without turning to his trusted counsel.

15 So Mr. Rosenberg transfers \$560,000 from this
16 account. And at the hearing, you will see the documentary
17 evidence to support that, to BARM, to Locke Lord. This
18 wasn't something these people discovered the other day.
19 This isn't something that Mr. Kirshenbaum and the other
20 attorneys are just learning about and they're getting up to
21 speed. This is 2011, over three years ago this was
22 happening.

23 They understood what was going on and do you know
24 what Mr. Rosenberg didn't do in 2011 and he didn't do in
25 2012 and he didn't do it in 2013? He didn't say, why would

1 I pay over money to Locke Lord or to BARM because I'm owed
2 money? I'm owed -- according to Mr. Kirshenbaum -- I'm owed
3 a million dollars or is it 160,000 or is it 800,000? Is it
4 850,000? That's not what Mr. Rosenberg did. He
5 participated in the very process that Mr. Kirshenbaum
6 challenges here today.

7 Let's turn to, again, the secrecy because I was
8 accused of being a co-conspirator and I don't take it
9 personally. Mr. Kirshenbaum was doing his job. But he
10 needs to do his job and one of the things he can do is, he
11 can go to the publicly available court dockets or he can
12 simply go to Google and what he would have learned is his
13 statement, most of the lawsuits were only commenced in 2014
14 and that was to conceal all of the activity so there
15 wouldn't be a bankruptcy preference issue. That was an
16 untruth, because when Mr. Kirshenbaum goes back to his
17 office or has his associate go back to the office, what they
18 will find is that years ago, there were publicly filed
19 complaints against a number of entities and in those
20 complaints the very language, which is contained in the
21 confession of judgment is in the complaints.

22 All of the things which Mr. Kirshenbaum claims we
23 were concealing in that confession of judgment, which we
24 locked in the drawer -- I think that was his expression --
25 we hid it away because we didn't want the world to know what

1 we knew that Mr. Barkany had perpetrated this Ponzi scheme
2 and that he was a crook and that we needed to hide that so
3 we could secretly coerce people to give us money.

4 The problem is, we filed complaints where we laid
5 out in detail what Mr. Barkany had done. The word Ponzi
6 scheme appears over and over again, fraud. In fact, Your
7 Honor, if Your Honor would take the confession of judgment
8 and put it next to any of those complaints, the language
9 will look remarkably similar. We weren't trying to conceal
10 anything. There was full disclosure and certainly,
11 Mr. Kirshenbaum's client, Mr. Rosenberg knew in 2011 what
12 was going on.

13 So the suggestion to the Court that what we were
14 doing was operating in secret to defraud people is pure and
15 utter nonsense. And the suggestion that the Borgata, that
16 had they known -- had we not kept it a secret, they would
17 never have extended credit to Mr. Barkany.

18 That cannot be taken seriously, because the same
19 resources that were available to Mr. Kirshenbaum were
20 available to Borgata's counsel. This was a matter of public
21 record for years before these petitioners suddenly found
22 religion right before the holidays to come into court and to
23 complain about the duplicity -- or supposed duplicity of
24 BARM. That's not what happened here, Judge.

25 Now, with respect to the Borgata claim, I don't

1 know what due diligence they did. What they did know is
2 that Mr. Barkany, according to a document that he signed --
3 and I believe according to the allegations made by the
4 Borgata -- that he was a compulsive gambler and they gave
5 him money time after time after time and time again.

6 What you will also find is if there's an
7 evidentiary hearing so that the sunlight can be cast on the
8 activities which occurred here, what you will find is that
9 at some point, the Borgata -- while it was Mr. Barkany who
10 was gambling in their casino -- when they needed to be paid,
11 they accepted payment from a corporate entity, not
12 Mr. Barkany.

13 Corporations don't go to the gaming tables at the
14 Borgata and gamble. It was Mr. Barkany. That should have
15 put them on notice to be suspicious that something is going
16 on here. He's incurring debts to us and he's paying those
17 debts out of a corporation. I don't know what world they
18 live in and maybe the gambling world is different, the
19 casino world is different, but that smells bad. There's
20 something wrong there.

21 They didn't care. They either didn't -- they do
22 due diligence on Mr. Barkany? Couldn't have. If they
23 Googled his name, they would have found he was a Ponzi
24 schemer.

25 Now, the other thing they talk about is, we didn't

1 go to the authorities. That's something we should have done
2 right away, the minute we knew what was going on, we should
3 have gone to the authorities. Again, Mr. Rosenberg didn't
4 go to the authorities when in 2011 he must have known what
5 was going on.

6 And in fact, you will see deposition testimony
7 from Mr. Rosenberg, I believe it was Mr. Rosenberg, who
8 talks about people are getting suspicious, we have to start
9 sprinkling money around. He said that in an email to
10 Mr. Barkany. He knew what was going on. He fully
11 understood, but here's the problem, Judge.

12 Mr. Rosenberg claims he's owed 160,000 plus. We
13 don't know what that number is. That alone is a bona fide
14 dispute. Mr. Kessler claims 135,000 and Borgata 240,000.
15 So they claim they're owed these amounts and they've known
16 it for quite some time. Why weren't we in bankruptcy court
17 last year or the year before that? Why didn't Mr. Rosenberg
18 go to Mr. Kirshenbaum and say in 2011, look, I know that
19 Mr. Barkany owes people money and he can't pay his debts and
20 he owes me money. He owes me a million, 800,000, 160 --
21 pick whatever number they've used. It doesn't really
22 matter.

23 Why didn't Mr. Rosenberg and Mr. Kessler and the
24 Borgata commence the proceeding a year ago or two years ago
25 or three years ago? When did they commence the proceeding?

1 After they were sued. Is that a coincidence? I don't think
2 so. That can't be a coincidence. They commenced this
3 proceeding because they became defendants in law suits and
4 they wanted to bring those lawsuits to a halt. That's the
5 purpose of these proceedings. Because Mr. Rosenberg claims
6 he's owed money by Mr. Barkany, but he still gives him money
7 to support his family.

8 I'm not testifying. That's what I believe the
9 evidence will show. But he comes to this courtroom through
10 counsel and claims he's owed money. These actions -- this
11 petition -- these petitioners are perpetrating a fraud on
12 this Court.

13 Now, I accept, Your Honor, that by your body
14 language and some words you've used and the way you've
15 described it, you are somewhat -- if even more than somewhat
16 uncomfortable with the idea of a quasi bankruptcy proceeding
17 going on outside of the confines of this courtroom and
18 that's what has been our process has been described as.

19 What I can tell you -- and I will try to be brief
20 -- is it played out a bit differently than Mr. Kirshenbaum
21 and his clients would have you believe.

22 You have Mr. Barkany confesses to his fraud. By
23 the way, he didn't just confess to Locke Lord's clients.
24 There were other people who were aware of what he had done.
25 Mr. Barkany -- so we have a choice as attorneys representing

1 clients and that choice is, do we immediately report him to
2 the authorities? Do we immediately run to bankruptcy court
3 or do we do what the Courts are consistently urging us as
4 attorneys and officers of the Court to do, which is try to
5 resolve your disputes. Try not to invoke the judicial
6 process if it is not necessary.

7 And in this respect, we had a rather unique Ponzi
8 schemer. In contrast to Mr. Madoff -- and to compare this
9 to Madoff is ridiculous. There was a relatively small
10 number of victims. We had the perpetrator of the scheme to
11 his credit, stepped up and said, I'm caught. I better
12 cooperate. It's in my best interest to make restitution, to
13 put as much money in the pockets of the people that I owe
14 money in the hopes -- and here's where I guess there's some
15 leverage -- in the hopes that I won't go to jail.

16 So we cooperated with Mr. Barkany and he
17 cooperated with us. And I am proud of the work that my firm
18 did in working with Mr. Barkany once he had confessed to his
19 scheme, in helping make the victims of his scheme whole. We
20 recovered securities accounts. We liquidated hard assets.
21 We hired a forensic accountant -- hopefully I'm pointing to
22 Mr. Belsky and he's where I'm pointing.

23 We did all of the work necessary to help
24 Mr. Barkany make good on his pledge that I am going to make
25 restitution, I will make my victims whole. And we were

1 successful, depending on what the number is and it's a
2 number which ultimately there will be agreement on. It's
3 \$22 million. It's \$32 million. I'm not sure what the
4 number is and in part, there's a reason for that. Some of
5 the assets have not been liquidated, they're still
6 operating. The victims, who we represent have had to pump
7 money into those assets to enable us to reach a point where
8 we could sell them or someday sell them at a profit.

9 So the valuation issue is a difficult one, but we
10 are working on it. So we recover a substantial amount of
11 money. The next thing we do is, we send letters. I believe
12 Mr. Kirshenbaum mentioned a former associate of ours,
13 Mr. Wax. Mr. Wax and a number of associates and my partner
14 identified through the assistance of Mr. Belsky, people who
15 -- based on Mr. Belsky's review of the records -- received
16 money and may have received more than they put in and
17 letters were sent out.

18 We negotiated settlements with numerous parties.
19 We worked with various parties. When we could not reach a
20 resolution, we did commence lawsuits in publicly filed
21 documents which were available to anybody who wanted to
22 look.

23 Now, as far as law enforcement goes, no one in
24 this room -- and certainly not Mr. Kirshenbaum -- knows when
25 we first spoke to the Government. And as Mr. Kirshenbaum as

1 an experienced attorney would know, the one thing we would
2 not be permitted to do when approached by the Government,
3 would be to disclose to the world, by the way, the FBI is
4 investigating Mr. Barkany. We should take out an ad in the
5 paper, so that people like the Borgata won't discover that.
6 But that's not the way our system works. When you sit down
7 with the Government, the Government tells you, don't
8 disclose that you're talking to us. Don't disclose that
9 you're cooperating. We don't want him to flee. We --
10 there's a list of things you're told not to do.

11 And just as the Borgata claims to have their
12 regulatory rules that they need to follow, the last thing
13 I'm doing is contravening what the FBI has told me I can or
14 cannot do, but the -- what will come out at the appropriate
15 time is that the FBI, the Government knew about
16 Mr. Barkany's activities long before he was ever arrested.
17 I guess the Government is also responsible for the Borgata's
18 losses, because the Government didn't take out the ad in the
19 paper.

20 I could go on and on and on, but I won't. The
21 bottom line is you have three petitioners here with claims
22 where there is a bona fide dispute as to whether there's
23 liability and the amount of the claims. In the interest of
24 full disclosure -- Your Honor has agreed that certainly the
25 Borgata claim will be subject of a hearing. I can't imagine

1 why Mr. Kirshenbaum after standing on the soap box would
2 take the position, but Judge, you can't look at Kessler and
3 Rosenberg -- you can't look at that. What are they hiding?

4 And the unique predicament of having Mr. Barkany,
5 who is the subject of the involuntary bankruptcy petition
6 being subject to criminal prosecution to be in jeopardy and
7 to have to take the Fifth, no case they cite deals with that
8 type of disability. And I suggest, Your Honor, that you
9 would not do violence to the general rule, which is not an
10 inflexible rule with respect to standing.

11 If anything, give Mr. Kirshenbaum what he wants.
12 Shed light on Mr. Rosenberg's claim and Mr. Kessler's claim,
13 because Mr. Barkany had limitations as to what he could do,
14 but you know -- because you have the record and you heard
15 what has been said in court -- that there is a bona fide
16 dispute and it's an injustice if you do not hear that. If
17 you have no questions, I'll sit down.

18 THE COURT: Thank you. All right. The Court --

19 MR. JANNUZZI: Your Honor, I'm sorry.

20 THE COURT: Yes.

21 MR. JANNUZZI: It's been a very long hearing, I
22 understand that, but at some point, we do need to address
23 the Fifth Amendment issue, whether it's before the hearing
24 that we're going to have the evidentiary hearing or today,
25 that's Your Honor's choice, but at some point we do need to

1 address that issue.

2 THE COURT: Address which issue? I'm sorry?

3 MR. JANNUZZI: The Fifth Amendment issue as it was
4 raised by Mr. Barkany at his deposition and in the event
5 that Mr. Kirshenbaum's (indiscernible - 1:53:36) at the
6 evidentiary hearing, it will be raised at that time as well.

7 THE COURT: Thank you.

8 MR. JANNUZZI: It can be addressed whenever the
9 Court wants.

10 THE COURT: Thank you. The Court is going to take
11 a recess and then when we come back and we reconvene, we
12 will collectively select a date for the evidentiary hearing,
13 the parameters of the evidentiary hearing and we'll proceed
14 as expeditiously, as collectively we can figure out
15 depending on the Court's calendar, a schedule for that
16 evidentiary hearing.

17 I should point out that don't misinterpret
18 whatever body language you focused on or the import of my
19 questions. As I said earlier, I am not reaching any
20 conclusions whatsoever. I listen to argument of counsel.
21 I'll only reach a conclusion based upon the admissible
22 evidence that we'll be performing at the evidentiary
23 hearing.

24 I certainly have a better feel and a better
25 understanding of this case now at ten minutes of 2:00 than I

1 did when we first started and I appreciate the patience of
2 counsel in making their argument. But again, I want to
3 reiterate, I have not drawn any conclusions and I'm not
4 making any findings until such time as we have the
5 evidentiary hearing and my conclusions and findings will be
6 based upon the admissible evidence.

7 So with that said, we'll recess until, I think the
8 cafeteria here might close at 2:00 or 2:30. So if you want
9 to grab something to eat, you should probably dash
10 downstairs now. I cannot vouch for the quality of the
11 cafeteria. I'm assuming that it's fine. And then we'll
12 reconvene at 2:45.

13 IN UNISON: Thank you, Your Honor.

14 (Recess)

15 THE COURT: Good afternoon. Thank you. Please be
16 seated.

17 (Pause)

18 THE COURT: Okay. We're trying to determine the
19 dates for an evidentiary hearing. The gist I get from the
20 parties is that they want an evidentiary hearing with
21 respect to the issues that have been raised as to whether or
22 not the petitioning creditors hold a bona fide claim.

23 So the thought process on that would be as
24 follows: September 22nd, which is next Monday, at 10
25 o'clock for the evidentiary hearing. By Thursday,

1 September 18, 4 p.m., a list of exhibits to be filed with
2 the Court and I would appreciate if the parties could agree
3 on a joint exhibit book. And I'd like to know whether or
4 not any of the parties have any objection to the
5 admissibility of any of those exhibits. And the exhibits
6 should be listed in the order they're going to be introduced
7 into evidence.

8 Now, with respect to the evidentiary hearing, we
9 will address the debtor's motion to dismiss first, with
10 respect to the Borgata claim because if the debtor is
11 successful with respect to the Borgata claim, then we may
12 not need to continue the evidentiary hearing with respect to
13 Mulholland's motion with respect to Mr. Rosenberg and
14 Kessler.

15 On that point, on that point, the Court will
16 permit BARM's motion to dismiss with respect to
17 Mr. Rosenberg, taking into consideration that he is
18 Mr. Barkany's father-in-law and there may have been some
19 issues with respect to the challenge of Mr. Rosenberg's
20 claim by his son-in-law. But, at this point, we are putting
21 to the side BARM's motion to dismiss with Mr. Kessler. The
22 Court does not view the Kessler and Rosenberg issue with
23 respect to the debtor's ability to challenge in the same
24 light.

25 So we will address the Borgata issue first and, if

1 we can come to a determination with respect to Borgata and
2 if it's comes to pass that the debtor is successful in
3 objecting to the Borgata claim on the ground that there is a
4 bona fide dispute, then we may not even have to reach the
5 issues with respect to Mr. Rosenberg and then certainly not
6 even going further talk about the issues with Mr. Kessler.

7 So, with that said, yes, BARM's should be prepared
8 for Monday's hearing as well.

9 So, let me just go back. And I will take a
10 feedback from the parties with respect to the scheduling
11 issues. But here's what the Court's thought process is. As
12 I said, Monday, September 22nd, 10 a.m. for the evidentiary
13 hearing. By 4 p.m. this Thursday, a list of exhibits to be
14 filed with the Court. And, as I said, I want the parties to
15 make every effort that it be a joint exhibit book and that
16 you can agree on the admissibility of these documents or any
17 of these exhibits into evidence.

18 If there is an issue with admissibility, the Court
19 would want to know that also by 4 p.m. on Thursday,
20 September the 18th. And if there's an issue with
21 admissibility, I would hope, I would hope that the parties
22 would use their good faith efforts to at least agree on
23 foundation authentication.

24 By 4 p.m. on Thursday, the 18th, you are to file a
25 list of witnesses likely to be called. That list should be

1 in the order in which you intend to call those witnesses and
2 if any of those witnesses are going to be a sponsoring
3 witness with respect to any of the documents you are going
4 to seek to introduce into evidence, the Court would want to
5 know the specific documents that that witness will be the
6 sponsoring witness for.

7 The Court will not take any further pleadings.
8 Certainly, there's been enough pleadings filed already. And
9 the Court also will want to know if any of the parties wish
10 to proceed with direct examination by declaration. And if
11 you want to proceed by declaration, then the declarations
12 would also have to be in by 4 p.m. on Thursday, the 18th.
13 But if you're going to proceed on direct examination by
14 declaration, which, of course, would expedite matters, then
15 the declarant, that particular witness, has to be present
16 for cross-examination.

17 Anybody have any questions concerning the
18 scheduling?

19 UNKNOWN SPEAKER: Judge, may I speak to my client
20 for one second?

21 THE COURT: Yes, you may.

22 MR. WASSERMAN: I was going to ask if we could add
23 seven days to each of the dates.

24 THE COURT: I'm -- as I said, when we were
25 checking on available dates, the sense I got is that the

1 parties wanted to move quickly. I'm happy to accommodate
2 the scheduling as to when all of this is done and presented
3 to the Court. I'm not certain, no one has said, that they
4 wanted to take discovery. If parties want to take discovery
5 in advance of the hearing, then that's a whole different
6 scheduling order and the Court will issue a scheduling order
7 with respect to the timing of discovery, the witnesses, the
8 exhibits, a pre-trial statement and then we would proceed
9 with that.

10 So I'm happy to accommodate the schedules and try
11 and get the timing so that it fits into everyone's timing,
12 particularly if you want to take some discovery. So I'm
13 happy to hear what the parties have to say.

14 MR. KIRSHENBAUM: Your Honor, I'm -- assuming that
15 for the moment we are talking about a hearing that, again,
16 will involve first, a hearing with respect to the Borgata
17 claim --

18 THE COURT: Yes.

19 MR. KIRSHENBAUM: -- and then assuming that Your
20 Honor is persuaded at the conclusion of that hearing, that
21 there is no bona fide dispute as to the Borgata claim, then
22 a hearing that will follow with respect to the Rosenberg
23 claim?

24 THE COURT: Yes. We'll proceed first with Borgata
25 and then with Rosenberg.

1 MR. KIRSHENBAUM: And then that's it -- so in
2 terms of the hearing? Yes.

3 THE COURT: Yes.

4 MR. KIRSHENBAUM: So I would like to move forward
5 with the deposition that I noticed of Mr. Belsky right after
6 I got their objection because we've never been able to take
7 that or we haven't taken that for various reasons. So I
8 would certainly like to depose him with respect to his
9 analysis of the Rosenberg claim as part of the preparation
10 of my response to that.

11 And, Your Honor, I would be available to take --
12 now that may throw off the schedule or Your Honor might
13 decide, depending if there's no discovery that -- that's
14 going to be taken with respect to the Borgata claim, perhaps
15 Your Honor would then think it made sense perhaps to hold
16 those two hearings on different dates. In other words, go
17 forward with Kessler. I'm sorry, go forward with Borgata
18 and then schedule the Rosenberg for later on the same, you
19 know, kind of rationale. If for whatever reason Your Honor
20 were to be persuaded that there was a bona fide dispute as
21 to the Borgata claim. Right? Then there might not be any
22 need for a further hearing with respect to Rosenberg and
23 then there would not be any need for discovery with respect
24 to Belsky.

25 THE COURT: Well, it also depends on whether or

1 not any other parties want to take discovery before the
2 hearing.

3 MR. JANNUZZI: Judge, I would need at least
4 disclosure of the documents that the Borgata would be
5 relying upon to show that they are entitled to \$240,000 from
6 my client. I'd possibly want to take their deposition prior
7 to this hearing.

8 In addition, on Monday, September 22nd, my client
9 is due in front of the District Court (indiscernible -
10 3:27:52) at the very time of our hearing so --

11 THE COURT: So if you want to take discovery of
12 Borgata. You would like to take the discovery of
13 Mr. Belsky. Mr. Wasserman, any discovery?

14 MR. WASSERMAN: I believe so. I have a suggestion
15 and I don't know how this -- I think this makes sense if
16 perhaps we recess and the parties discuss amongst themselves
17 what discovery they might want, what scheduling works and
18 then we would come back to the Court, if not today, then
19 tomorrow morning.

20 THE COURT: I think that is a good idea. Make it
21 as if it's your 26(f) planning conferences and what
22 discovery you think is necessary. You let the Court know
23 that you've conferred, that this is the type of discovery
24 that you anticipate taking, this is the amount of days that
25 you think you need to conclude your discovery and then from

1 that, the Court can issue a scheduling order that will
2 incorporate that discovery and set it down for a hearing
3 that would be hopefully available for all of the parties.

4 MR. JANNUZZI: Judge, one further thing. Counsel
5 for the Borgata could address this issue. Do they need an
6 additional order from this Court to produce the documents in
7 light of the regulations that you cited earlier in your
8 argument today?

9 MR. KLAUSNER: I don't believe so at this point
10 since there's a -- there's a claim, that they are -- that
11 they owe, Mr. Barconi (ph) money. At this point, I believe
12 they're entitled to defend against that. I will check with
13 their general counsel but I tend to think, at this point,
14 not.

15 THE COURT: Okay. And to the extent that the
16 parties have a discovery dispute, the scheduling order will
17 take that into account and into consideration as to how that
18 discovery dispute would be brought before the Court. It
19 will all be laid out in the scheduling order. Yes?

20 MR. KLAUSNER: Judge, I was speaking with
21 Mr. Wasserman earlier and presuming that there is not
22 prohibition, at this point, in getting Mr. Barconi's records
23 from him, I had offered to Mr. Wasserman that we'll be happy
24 to provide those records to Mr. Belsky and he can take a
25 look at them.

1 Quite frankly, Your Honor, it's much ado about
2 nothing. The records are the records and they are going to
3 show what they show which is that he owes the Borgata money,
4 which Mr. Barconi, who's here now, I believe, he knows full
5 well that the money that he transferred, he either lost or
6 took back. And that the \$240,000 in unpaid markers is the
7 \$240,000. I have no issue with that.

8 I'm happy to provide the records to Mr. Belsky and
9 if Mr. Belsky still has a problem with it, if Mr. Jannuzzi
10 wants to take a deposition, I guess that's fine. You know,
11 I certainly wouldn't oppose that. But I think that if
12 Mr. Belsky has the records, then he can see where, you know,
13 the money came, the money went out and then the \$240,000 and
14 he's satisfied that the money is accounted for, you know, I
15 think we could potentially dispense with that part of the
16 hearing and just resolve it amongst ourselves in a much more
17 efficient and --

18 UNKNOWN SPEAKER: Cost.

19 MR. WASSERMAN: We did talk and we're happy to
20 take counsel up on his offer and if we can proceed
21 informally and perhaps resolve the issue, we're more than
22 willing to do that.

23 THE COURT: That's fine. And if you do come to a
24 resolution on the Borgata claim, please advise the Court as
25 promptly as possible.

1 MR. WASSERMAN: Can we -- after we consult amongst
2 ourselves, can we set up a conference call with the Court or
3 should we notify the Court by letter of what we propose so
4 that you can supply us with dates?

5 THE COURT: I think a letter would be appropriate.

6 MR. KIRSHENBAUM: I was -- Your Honor, I was going
7 to suggest or ask perhaps if we could schedule a conference
8 call and if we don't need it because we've agreed on
9 everything, then we can send the Court a letter, advise the
10 Court of that.

11 But, I think, Your Honor, that if there's a
12 dispute that we can't resolve among ourselves, I think it
13 would probably be much more efficient talking it through
14 with you through a conference call and getting a resolution
15 as opposed to start sending you letters, you know, with
16 respect to disputes.

17 THE COURT: Well, I certainly don't want battling
18 letters and --

19 MR. KIRSHENBAUM: Right.

20 THE COURT: -- any letter that you would send to
21 the Court would be non-argumentative and then I would have
22 to limit the amount of pages that you're going to send in.

23 MR. KIRSHENBAUM: That's what I -- I think a phone
24 call --

25 MS. WASSERMAN: I envisioned a single, joint

1 letter.

2 THE COURT: But the point -- whether it's a
3 single, joint letter, non-argumentative, by the way, again,
4 if we're going to do that or a conference call, I'm assuming
5 that all we're going to be discussing is really the timing
6 and the scheduling. It shouldn't be already that you have a
7 discovery dispute.

8 I think what you're going to be doing, either this
9 afternoon or tomorrow, is, as I said earlier, as if you were
10 conducting a Rule 26(f) planning conference and then
11 reporting to the Court at the very next pre-trial with
12 respect to the discovery schedule or the discovery and the
13 type of discovery that you think you need and how long a
14 period of time you're going to need to take that discovery.
15 That's what I'm anticipating and that could be done in just
16 a single page letter to the Court confirming that you have
17 conferred and that you have decided that this is the
18 discovery that needs to be taken and this is the period of
19 time, we need 30 days, we need 60 days, we need "X" number
20 of days for discovery.

21 And then the Court then would make its
22 determination as to how long the discovery period should
23 take based upon the information that you give to the Court
24 and we'd issue the scheduling order.

25 MR. WASSERMAN: Sounds right.

1 MR. KIRSHENBAUM: And if we have a dispute that we
2 need resolved, we would request a conference with -- at that
3 stage?

4 THE COURT: If you have a dispute as to how --

5 MR. KIRSHENBAUM: Scope, for instance, scope --

6 THE COURT: -- long the discovery period --

7 MR. KIRSHENBAUM: -- or scope, or something like
8 that, I mean, as an example.

9 THE COURT: I'm sorry. Say that again.

10 MR. KIRSHENBAUM: Say something like scope as an
11 example. I mean --

12 THE COURT: Well, I think the scope of discovery
13 is going to happen once you're in the discovery. I'm
14 assuming that you're not going to have any dispute over the
15 timing of the discovery, how long it's going to take, what
16 you anticipate. If you can't agree on how long a period of
17 time that it's going to take for you to complete your
18 discovery, then this is going to be a very long, drawn out
19 process, much longer than it really should be.

20 I think the parties are capable of meeting in good
21 faith and coming to a determination as to what discovery
22 needs to be taken and how long a period of time you need to
23 discovery for.

24 So, with that said, when do you want to send the
25 Court the letter? You're going to try and meet this

1 afternoon? You're going to try and meet tomorrow? You want
2 to send the letter by Thursday that outlines the amount of
3 time that you need to take discovery?

4 MR. WASSERMAN: That should give us ample time,
5 Judge. Thursday.

6 UNKNOWN SPEAKER: I agree. Thursday would be the
7 right now.

8 THE COURT: Have that letter to us by 4 o'clock on
9 Thursday?

10 MR. WASSERMAN: Very good.

11 MR. KIRSHENBAUM: Judge, again, I just want to
12 raise this again because, in terms of sequence, it does --
13 should we defer talking about the discovery with respect to
14 the Rosenberg claim?

15 THE COURT: I --

16 MR. KIRSHENBAUM: Until after we get a resolution
17 on the Borgata claim, right? Because there -- because if
18 the Court rules that there's a bona fide dispute as to the
19 Borgata claim, then we don't go any further; right? Why
20 spend time dealing with discovery with respect to a claim
21 that may become moot? Spending someone's time and money on
22 a --

23 THE COURT: It's a fair point as far as the
24 expenses are concerned to bifurcate it. Does anybody else
25 have a view on the bifurcation of that, that we solely focus

1 on -- Mr. Kirshenbaum, I think if I understand you, let's
2 solely focus on the Borgata claim, discovery with respect to
3 Borgata and that would be the first thing that we address
4 and depending on how that hearing goes, then we would have
5 to deal with the issue of Mr. Rosenberg.

6 MR. WASSERMAN: Our preference, Judge, would be to
7 do both the Borgata and Rosenberg given the intertwined
8 financial relationships between Mr. Barconi and
9 Mr. Rosenberg. It's certainly possible, I don't know
10 whether it's the case, that Mr. Rosenberg might have given
11 money to the Borgata on Mr. Barconi's behalf.

12 It seems to me that we should just go forward with
13 both and, of course, if we resolve the Borgata claim
14 informally, then there'd be no need to go forward with that
15 discovery.

16 THE COURT: I think it makes sense from economics
17 and expediency, and I do understand your point,
18 Mr. Kirshenbaum, but I think since Mr. Belsky is going to be
19 involved in the Borgata thing, I think it makes economic
20 sense for both of those issues to be heard at the same time.
21 So proceed with your discovery and take it from there.

22 It may be that very shortly within a matter of
23 days after reviewing the information that counsel for the
24 Borgata provides to the debtor's counsel that it may mean
25 that there'll no longer be any claim with respect to the

1 bona fides of the Borgata issue.

2 MR. KIRSHENBAUM: Okay.

3 THE COURT: Okay. So by 4 p.m. on Thursday,
4 September 18, you will provide to the Court, if you can do
5 it in a single page, I -- the Court would appreciate that, a
6 discovery schedule. Again, if it's a joint letter, non-
7 argumentative.

8 And then based upon that letter, the Court will
9 either determine that we need to hold either a conference
10 call or bringing everybody back for, the lack of a better, a
11 pre-trial conference, or a pre-evidentiary hearing
12 conference, however you wish to turn it, or the Court will
13 issue its own scheduling order based upon the dates that you
14 have given.

15 And just one other -- a point, I just want to
16 remind all counsel of the rules of civility and that all of
17 you confer in good faith, act in good faith, treat everyone
18 with civility, that applies to counsel and the Court and the
19 Court staff as well and, as far as the evidentiary hearing
20 is concerned, the Court will feel free to interrupt counsel
21 and ask questions as the Court feels it necessary or as the
22 Court determines. So are we all set with that? Okay?
23 Good?

24 IN UNISON: Thank you.

25 THE COURT: All right. The Court is now

1 adjourned.

2 (Whereupon these proceedings were concluded at 3:39

3 P.M.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T I O N

We, Nicole Yawn, Melissa Looney, and Penny Skaw, certify
that the foregoing transcript is a true and accurate record
of the proceedings.

Nicole
Yawn

Digitally signed by Nicole Yawn
DN: cn=Nicole Yawn, o, ou,
email=digital1@veritext.com,
c=US
Date: 2014.10.15 16:34:21
-04'00'

Nicole Yawn

Melissa
Looney

Digitally signed by Melissa Looney
DN: cn=Melissa Looney, o, ou,
email=digital1@veritext.com, c=US
Date: 2014.10.15 16:34:51 -04'00'

Melissa Looney

Penny A
Skaw

Digitally signed by Penny A Skaw
DN: cn=Penny A Skaw, o, ou,
email=digital1@veritext.com,
c=US
Date: 2014.10.15 16:35:30 -04'00'

Veritext

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: October 15, 2014

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

&	13 2:3 20:17,20	2014 1:18 25:20	425 3:12
& 2:6 4:2,9,17 5:1,9 6:18 7:9,12,15,24 8:4	135,000 74:23 86:14	26:8 34:2,3 83:13	45 21:2 26:13 35:13 35:14 54:21 73:5,6
0	14 4:19	109:23	47 59:15
07601 4:20	141 78:21	205 3:5	5
08 57:2	1425 3:22	22 9:7 14:14,15,16	5 20:22 57:2,25 58:2 58:5
08/13/2014 2:3	145 5:3	14:18 15:4,5,7,9,10	5.4 21:10
08/18/2014 2:7	15 2:7 109:23	26:3,5,6 46:2 59:13	50 55:25
09 57:2	15,000 64:11	70:4 89:3	50,000 53:22,23
1	15th 3:21	22nd 25:8 93:24	500,000 28:24
1 9:16 10:9 12:13	16 1:18	95:12 99:8	5000 54:22
20:16,22 29:1 39:21	160 86:20	24 50:1	560,000 82:2,2,15
40:1	160,000 73:12,18	240 61:18	58 23:5,18 27:2,4 40:7 45:7 59:14
1.2 34:20	74:7,8 83:3 86:12	240,000 41:15,16	5th 13:12 18:15
1.3 60:23,25 61:4	170 5:13	42:1 52:18 55:1	6
1.7 61:2	18 94:1 107:4	60:2 75:5 86:14	6 22:11 25:10
10 6:12,14,15,16,24	18th 95:20,24 96:12	99:5 101:6,7,13	60 103:19
20:20 55:14 93:24	1938 64:3,4,6	241 77:23	600,000 28:24
95:12	1992 78:22	25 26:20	64,000 33:9
10,000 54:15	1:02:01 58:5	26 99:21 103:10	66 9:2,6,8
10.6 25:19	1:04:26 60:3	27 24:21	7
100 18:3	1:14:20 67:8	27th 24:10 32:9	7 47:14 48:14
100,000 53:18,21,21	1:20:19 71:24	36:3 45:19	7/26/13 75:19
10006 5:5	1:32:41 79:17	290 1:15	700 54:6
10022 3:13	1:37:28 82:12	2:00 92:25 93:8	700,000 12:8,12 61:7
10281 4:4	1:53:36 92:5	2:30 93:8	707 64:20
10601 5:14	1st 32:10	2:45 93:12	775 3:4
10:00 6:10,10,11	2	3	8
11 6:4,14,17 47:2,3 47:15,18,18 48:13	2 75:17	3 4:3	8 27:5
11415 4:13	20 9:5 27:1	30 25:24 72:22	8-14-72941 1:3
11501 109:22	200,000 40:11	103:19	80-02 4:11
11556-1425 3:23	2009 27:22 35:4	300 109:21	800,000 73:14 83:3 86:20
11743 3:6	2010 20:2 25:11	300,000 40:12	850,000 73:14 83:4
11:51 1:19	32:9 35:4 44:17	302 4:12 5:4	9
11:52:42 6:9	68:4	303 10:25	9 34:21
11th 24:21,23	2011 22:10,15 25:12	305 9:16 10:9 64:20	a
12 64:10 69:4	25:17,20 26:7,18	30th 45:23	a.m. 95:12
12:13:30 21:25	27:17 28:6 40:17	32 25:12,23 26:4,6	abbreviate 11:15,17
12:23:41 28:25	43:3 45:5 58:20	46:1 89:3	abbreviation 14:20
12:28:47 32:16	68:3 82:1,21,24	330 109:20	
12:48:33 47:21	84:11 86:4,18	38 77:23 78:21	
12:51:07 49:21	2012 27:16 34:25	3:27:52 99:10	
12:52:49 51:5	39:19,25 40:5,11	4	
	41:6 82:25	4 20:22 35:20 94:1	
	2013 26:20 27:16	95:13,19,24 96:12	
	34:3 40:24 42:3,3	105:8 107:3	
	43:23 66:22 82:25		

abetting 33:6 59:2	55:17,20,22 56:5,5	advisory 65:23	75:16 76:3,4,10,11
abide 17:18 39:12	56:5 57:9 58:19	advocated 38:4	76:13 79:6 89:10
52:25	69:5	advocating 36:14	90:23 99:24 102:22
ability 79:3 94:23	actions 12:20 25:4	aegis 14:19	105:2
able 16:17 42:11	28:23 30:24 87:10	affidavit 43:2 75:20	amounts 61:3 86:15
78:17 79:18 98:6	activities 85:8 90:16	afternoon 93:15	ample 105:4
absolute 47:14	activity 9:25 83:14	103:9 105:1	analysis 17:15
absolutely 35:21,22	actual 57:7	agape 56:8	74:19 98:9
48:11 61:12 62:5,20	ad 90:4,18	ago 34:22 81:18	analyzed 74:4
63:6 79:25	add 17:22 81:2	82:1,21 83:18 86:24	analyzing 74:20
abstain 10:12	96:22	86:24,25	angry 24:18 48:22
abstention 9:17	addition 15:21 16:4	agostino 4:17 7:12	48:24
27:24	17:12 73:20 99:8	agree 22:18 30:4	answer 15:12 57:19
acceded 16:24	additional 53:4	38:23 75:8 94:2	78:7,8
accept 87:13	66:12 100:6	95:16,22 104:16	answering 59:18
accepted 85:11	address 6:22 8:13	105:6	anticipate 99:24
accommodate 97:1	8:13 52:20 58:24	agreed 9:10 17:4	104:16
97:10	61:9,14 63:16,18,19	29:8 75:4 90:24	anticipating 34:23
accomplished 16:21	72:17 91:22 92:1,2	102:8	103:15
48:1,3,4,5,6	94:9,25 100:5 106:3	agreeing 33:21	anybody 89:21
account 14:23	addressed 59:16	agreement 29:7	96:17 105:24
41:21 53:13 54:10	63:15 92:8	89:2	apologize 39:6
54:13,19 65:14	adjourned 108:1	agreements 35:17	49:21
82:16 100:17	administering 50:3	agudelo 3:16 7:5	apparently 20:24
accountant 12:3,11	administration	aiding 33:6 59:2	21:2,7 27:9 29:4
42:18 43:5 52:22,22	69:3 70:7	alan 2:5	41:3,10 52:21
53:2,3,12,25 60:10	administrative 70:1	alfonse 1:14	appearance 6:21
60:15,20 74:9 80:21	admissibility 94:5	allan 15:15	appearances 6:23
88:21	95:16,18,21	allegation 11:5	6:25
accountant's 61:20	admissible 71:14	allegations 85:3	appearing 5:18
74:3	92:21 93:6	alleged 23:24	appears 84:6
accountants 15:22	admission 76:2	allegedly 51:2	application 39:20
70:9	admits 43:7	alleging 10:23 11:2	39:24 40:2,3,19
accounted 101:14	admitted 20:18,21	60:1	79:2
accounts 35:12,15	21:3 23:19 57:2	allen 4:6 7:23	applied 17:1,5
41:21 88:20	75:15,16 76:13	allowed 53:1,8	applies 107:18
accurate 66:22	admittedly 43:15	64:21	appointed 30:3
70:15 109:4	ado 101:1	alluded 24:2	47:18
accused 25:2,5	adopted 60:22	almighty 42:11	appreciate 44:8
52:21 59:2 83:8	adopting 61:21	amazing 22:9	72:20 93:1 94:2
accusing 45:14	advance 54:13 97:5	amendment 13:12	107:5
act 52:24 107:17	advantage 51:18	18:15 66:13 78:16	appreciates 30:18
acting 25:6 33:8	76:21	91:23 92:3	approached 17:9
81:11	advantages 51:20	amount 9:6 11:4	20:3 22:14 90:2
action 13:4 15:6	advise 101:24 102:9	12:8 23:23 25:18	approaching 33:10
17:25 25:17 26:11	advised 12:3 21:8	27:2 57:23 61:25	appropriate 13:14
26:23,24 28:5 55:17		69:14 70:21 74:14	72:6 90:14 102:5

approving 59:19,20 april 40:11 area 41:1,2 argued 78:4 argues 76:1 arguing 76:12 argument 10:19,20 18:14 60:8,19 61:21 70:24 71:12 77:9,11 92:20 93:2 100:8 argumentative 102:21 103:3 107:7 arguments 69:19 arrangement 48:18 arrest 26:22 41:8 arrested 90:16 arrived 53:19 61:8 articulated 81:9 ascertained 9:10 ascribed 25:14 asked 17:10 40:25 53:4 66:9,18 asking 9:16 29:11 43:21 asks 79:22 aspect 6:20 asserted 11:5 62:3 63:22 asset 2:6 4:2 6:18 7:24 12:4 72:12 assets 9:8,22 15:18 15:19,19,23 24:4,4 24:6,13,14,15,16,16 25:9,15,18,21,23,25 28:15 29:17,18,19 29:23 30:5,21 31:14 31:15 34:11,11,15 36:4,5,9 37:16,17 44:24 45:9,16,24 57:5,7 76:23 88:20 89:5,7 assist 78:18 assistance 89:14 associate 83:17 89:12 associated 70:7	associates 4:17 7:12 89:13 assuming 9:14 93:11 97:14,19 103:4 104:14 assure 16:16 19:11 30:6 attached 41:20 78:15 attaches 25:24 43:2 attachment 74:8 attempt 49:23 77:25 attorney 3:3,19 4:10,18 5:2,10 9:24 13:18,20 23:1 24:3 29:9 31:6,6,7 49:3 50:14 67:22 69:2 90:1 attorneys 3:11 4:2 15:11 23:17 33:12 58:19 69:16 82:20 87:25 88:4 attorneys' 27:6 attorney's 10:1 attributed 81:15 august 22:10,22 25:17,20 26:7,17 27:17 28:6 45:5 authentication 95:23 authorities 86:1,3,4 88:2 authority 77:3,4 authorization 16:2 authorized 53:6 available 54:17 80:22 83:11 84:19 84:20 89:21 96:25 98:11 100:3 avenue 3:4,12 5:13 avoid 36:15 37:12 37:21 avoidance 30:24 34:16 avoiding 37:10	aware 25:14 87:24 b b 1:21 b.r. 77:23 78:21 back 9:7 13:19 14:15 19:16 20:1 25:23 28:7,20,25 29:3 33:13,16 34:25 36:2 37:5,6 38:25 39:1,2,15,16 41:19 41:20 42:7,12 43:24 45:2,22 46:25 47:13 48:18 49:1 54:23 57:9 58:7 65:16,16 69:5,8,9,14,21 70:4 83:16,17 92:11 95:9 99:18 101:6 107:10 background 8:15 11:1 47:17 72:16 backup 35:20 bad 32:19 37:25 85:19 balance 27:22 bank 16:1 54:19 bankruptcy 1:1,13 1:23 8:20,23 9:12 10:15 13:1 14:10 16:15 30:1,8,9,16 30:17,19,19 31:3,10 31:12,16 34:14 36:14,16,25 37:9,9 37:23 38:13,14,15 38:16 46:22,24 48:6 48:8,8,9,16 49:1,2 49:15,16,24 50:4,14 50:14,15,17,18 51:12,13,16,19,21 52:2 55:19 56:3,8 56:21 58:10 62:8 63:11 64:9,25 65:10 69:3,22,23 70:2,5,7 70:13 71:18 72:10 74:7 77:16 78:19 82:7 83:15 86:16 87:16 88:2 91:5 banks 16:2	bar 18:11 59:8 barconi 100:11 101:4 106:8 barconi's 100:22 106:11 barkany 1:7 2:2,6 3:2 4:2 6:4,17,22 7:2,24 9:1,14,21 12:4,23 15:18,18,24 16:25 17:3,8,13,17 18:9 20:2,23 21:4 21:13 22:1,2,3,16 22:23 23:1,3,4,19 24:2,11,13,17,22 25:9,15 26:11,16,22 27:4,11,13,21,23 28:1,3,7,14 29:12 32:3,8,15,21 33:16 33:16,17,19,20 36:3 36:4,4 39:19,25 40:4,4,10,19,22,23 41:6,9,22 42:2,13 42:15,18 43:3,7,16 43:17,21,22,25 44:16 45:5,14 46:18 47:9,17 48:13,17,25 52:17,17 53:13 54:6 55:3 57:2,15 58:21 59:1,4 60:2 61:2,3 63:11 65:7 66:10,16 66:17,18,19,20 67:6 67:8,18 69:2,3 75:15,19,22 77:13 78:2,6,9,10,12,17 79:3,23 80:5,8,11 80:16,18 81:4,4 82:3 84:1,5,17 85:2 85:9,12,14,22 86:10 86:19 87:6,22,25 88:16,18,24 90:4 91:4,13 92:4 barkany's 65:15 67:7 73:21 76:10 80:4 90:16 barkany's 10:4 16:23 17:6 21:9 32:17,18 35:15,16

35:25 36:1,7 41:8 42:5 94:18 barkett 25:3 45:18 barm 12:4 14:20,25 15:1,8,9,10,17,21 16:10,19 17:8,11,19 19:15,20,20,23 20:4 21:15,19,23,24 23:8 25:17,21,23 26:9 27:3,4,8,17 28:12 28:22 29:4,9,11,23 30:2,4 31:25 32:20 32:23 36:24 37:13 38:1 41:8 42:5,13 48:3 50:21 53:3 56:24 58:4 59:7 61:9 62:17 68:9,25 78:2,3 80:14 81:11 81:20 82:8,17 83:1 84:24 barm's 94:16,21 95:7 barm's 15:11 barnett 27:3 bars 67:11 base 66:12 based 17:12 27:15 39:18 40:12,13 49:12 61:20 71:14 73:15,21 74:11 76:1 89:15 92:21 93:6 103:23 107:8,13 bases 30:24 basic 64:8 basically 21:24 22:6 23:3 25:4 27:23 37:18 38:25 53:15 67:10,10 basis 16:13 19:4 31:13 43:18 48:12 48:12 55:2 61:1 65:9 66:12 67:5 battling 102:17 beat 35:24,24,25 36:1 37:19 becoming 12:25	beginning 28:17 38:5 39:5 begs 59:18 behalf 2:2,6 22:15 24:5 36:23 52:6 57:19 65:2 106:11 behavior 81:16 believe 9:18 12:11 13:24 24:10,15 31:5 36:2 39:25 41:21 44:13 46:7 50:15,25 51:23 52:1 55:14 63:14 66:11,18 69:1 69:11 72:2 73:1 75:6 77:22 78:1 80:4 85:3 86:7 87:8 87:21 89:11 99:14 100:9,11 101:4 believes 47:9,9 61:11 belong 55:11,20 belongs 51:17 57:15 belsky 12:11 14:25 16:5 17:15 22:4 30:10 33:1 42:18,19 42:23 43:9,11,12,13 43:14 44:2,22 45:8 61:8,11 62:17 68:20 68:21 70:23 74:8,18 74:21 79:16 80:21 88:22 89:14 98:5,24 99:13 100:24 101:8 101:9,12 106:18 belsky's 59:20 70:24 89:15 belsky's 15:22 43:2 beneficiaries 16:8 benefit 23:16 71:19 benefiting 34:13 best 8:13,19 9:18 18:21 69:11 71:22 72:1 81:9 88:12 bet 40:23 better 15:12 22:17 30:6 39:14 72:10,13 88:11 92:24,24 107:10	bifurcate 105:24 bifurcation 105:25 bigger 31:11 binding 77:21 bit 8:15 18:25 87:20 blatantly 73:3 board 74:17 body 87:13 92:18 bona 11:4,6 18:20 39:17 43:19 44:4,5 57:4,7 61:16,16,24 62:2,9 63:13,21 64:1,18 65:8,20 68:18 74:12 75:2 79:10 86:13 90:22 91:15 93:22 95:4 97:21 98:20 105:18 107:1 book 94:3 95:15 borgata 11:23,23 27:20,21,21 28:4,7 28:8 39:8,13,22 40:8,10,18 41:18,19 41:23 42:1,3,6,20 42:20,21,24 43:3,10 43:16,16 50:24 52:16,18,18,20 53:6 54:2,7 60:1,12 61:1 61:4,12,13,16 62:4 62:10,16 63:18 65:8 65:20,25 66:10,21 66:22,23,24 67:20 67:24 68:14,16 75:3 75:5,19 76:1,3,5 79:10,13,18,23,24 80:19,23 84:15,25 85:4,9,14 86:14,24 90:5,11,25 94:10,11 94:25 95:1,3 97:16 97:21,24 98:14,17 98:21 99:4,12 100:5 101:3,24 105:17,19 106:2,3,7,11,13,19 106:24 107:1 borgata's 53:3 67:22 84:20 90:17	borrowed 54:24 bottom 90:21 bought 14:2 bounced 43:21 55:2 box 91:1 brand 19:25 breakdown 23:6 brief 58:16 75:14 75:17 76:6,13,18 77:24 78:5 87:19 briefly 46:18 bring 54:12 56:4 87:4 bringing 15:3 107:10 broadway 5:3 brought 34:2,2,8 40:15 100:18 brown 75:20 bunch 23:3,4 26:13 27:5 56:15 57:4 burden 68:14,16,17 79:14,15 business 38:7 46:24 46:25 47:10,11,22 65:6 buy 33:2
c			
c 3:1 4:6 6:1 109:1,1 cafeteria 93:8,11 calendar 6:12,15,24 92:15 call 11:17,22 17:7 75:4 82:6 96:1 102:2,8,14,24 103:4 107:10 called 27:23 47:17 53:14 56:1 95:25 calling 67:16 68:20 canadian 5:2 8:5 50:21 cancelled 16:1 can't 13:23 36:5 43:20 49:6 capable 104:20 capacity 34:20			

care 75:23 85:21 case 1:3 2:1,5 9:20 10:8 13:15,23 19:8 19:9,10 30:1,15 31:5,9,12,13,17,21 38:22 41:9 42:4 47:15 48:4,8,10,16 49:11,12,15,15,17 49:17 50:4 51:16,19 52:2 54:25 56:3,7 64:14,22,25 65:1,9 65:22 71:15 77:1,5 77:21,24,25 78:1,22 79:14 91:7 92:25 106:10 cases 31:11 38:17 38:18,18,19 46:23 47:20 64:23 68:7 cash 41:19 53:13 54:1 cashes 53:23 casino 11:23 41:4 41:13,14 52:24 53:16,16 54:10,16 54:19,21 55:3,4 85:10,19 casinos 52:24 cast 73:2 85:7 caught 88:11 center 4:3 central 1:16 certain 20:3 22:12 54:21 62:8 82:3 97:3 certainly 19:8 29:18 30:18 39:13 46:16 76:8 79:7 84:10 89:24 90:24 92:24 95:5 96:8 98:8 101:11 102:17 106:9 certainty 9:15 certify 109:3 cessation 28:3 challenge 64:1,5,7 64:17 66:2,3,3,4,4,5 66:12 79:10,12,18	79:19 81:5,6 94:19 94:23 challenges 83:6 challenging 65:20 67:5 change 64:12 changed 64:6 chapter 47:2,3,14 47:15,18,18 48:13 48:14 charge 9:25 charities 22:13 33:10 45:1 charity 22:13 33:12 charles 21:1 charts 74:21 cheated 42:1 cheater 29:14 check 54:16,18,18 100:12 checkered 47:12 checking 35:20 96:25 checks 16:1 41:11 41:12,13,14,19 43:20 54:22 55:2 65:13 66:20 children 80:6 chips 53:21,23 choice 87:25 88:1 91:25 circuit 77:4,6 circumstances 20:2 citation 64:24 cite 65:3 77:2,3,6 91:7 cited 77:24 100:7 city 55:18 civil 31:6,6 69:4 civility 107:16,18 claim 11:5,12,13 12:24 25:18 27:21 39:11,14,16,16,18 42:13,14,15 51:3,6 51:6,7,9,11 55:2,15 58:8 61:1,11 62:2,3 64:11 65:8 66:10,12	67:6,20 68:15,18 74:5,14,22,24 75:5 75:12 79:10,18,20 79:24 80:19 84:25 86:15 90:25 91:12 91:12 93:22 94:10 94:11,20 95:3 97:17 97:21,23 98:9,14,21 100:10 101:24 105:14,17,19,20 106:2,13,25 claimants 30:22 31:14 58:9 claimed 23:19 claiming 73:11,17 claims 9:15 10:23 10:24 11:3,14 14:23 16:17,17 21:10 30:22 50:23,25 51:1 56:11 57:12,23,25 59:15 63:22 64:1,18 65:20 75:6 79:6,6 79:12 83:22 86:12 86:14 87:5,10 90:11 90:21,23 clashes 48:9 claw 57:9 69:4 70:4 clear 10:13 19:20 23:18 37:4 38:12 44:7,10 52:2 63:25 64:3,6,14,15,22 68:23 cleared 60:17 clearly 32:19 40:9 52:12,17 clerk 6:9,12 client 12:16 18:14 36:19,20 38:13 50:24 51:2 60:11 63:5 68:24 69:9,14 69:21 70:11 84:11 96:19 99:6,8 client's 69:20 81:10 clients 24:24 27:14 36:23 56:4,18 57:1 57:6,20,24 58:2 59:1,14 81:15 87:21	87:23 88:1 client's 13:12 24:23 close 37:24 93:8 closed 17:20,21 41:21,22 65:14 clothing 25:3 45:20 code 10:9 46:24 48:9 coerce 84:3 coincidence 87:1,2 cold 21:17 colleague 7:5 colleagues 45:4 81:15 collected 14:19 17:23,24 18:3 29:23 59:14 collecting 59:10 collection 39:21 collective 71:17,18 72:10 collectively 8:13 9:2 9:13 18:21 92:12,14 come 6:23 33:13 37:1,22 41:19,20 46:19 50:9 51:8 54:11 59:6 62:8 80:18 84:22 90:14 92:11 95:1 99:18 101:23 comes 38:9 39:1,2 40:8 54:18 87:9 95:2 coming 14:24 31:22 50:12 72:15 104:21 commence 86:24,25 89:20 commenced 27:17 58:20 83:13 87:2 commencement 15:6 comment 49:6 comments 55:10 committed 42:16 44:19 51:2 committee 65:23,24
--	---	--	---

communication 53:10 companies 23:3,5 company 4:18 7:13 75:24 compare 88:8 compelling 57:19 complain 84:23 complaints 83:19 83:20,21 84:4,8 complete 16:6 30:6 104:17 completed 16:11 completely 23:20 44:15 57:15 68:2,3 component 54:1 comprise 64:8 compulsive 85:4 computer 16:4 conceal 83:14 84:9 concealing 83:23 conceded 81:4 concern 56:18 69:1 concerned 48:23 56:14,22 69:25 105:24 107:20 concerning 96:17 concerns 77:15 conclude 99:25 concluded 108:2 conclusion 92:21 97:20 conclusions 68:22 72:16 92:20 93:3,5 conduct 67:3 conducting 103:10 confer 107:17 conference 102:2,7 102:14 103:4,10 104:2 107:9,11,12 conferences 99:21 conferred 99:23 103:17 confess 87:23 confessed 17:9 20:4 27:11 88:18	confesses 87:22 confession 22:10,22 22:23,25 23:2 26:7 26:11,17,18,25 27:18 28:2,6,12 33:15 40:6,16,17 45:4,6 83:21,23 84:7 confidence 22:20 75:11,11 confines 87:17 confirming 103:16 connection 15:24 19:17 20:14 39:23 78:18 82:4 consent 60:11 consideration 49:9 54:1 94:17 100:17 considering 12:14 69:14 consistent 24:19 30:21 65:22 consistently 88:3 consists 26:1,2,2,2 conspirator 83:8 conspiring 82:9 constructed 51:3 consult 102:1 contacted 49:25 53:2,4 contained 83:20 contest 68:8 contesting 62:2 63:20 context 30:15 31:9 47:17 50:3 56:21 57:12 64:19 contingent 5:10 7:16 57:25 58:7,8 continue 9:23 10:3 37:16,18 72:23 94:12 continues 29:14 40:23 56:11 continuing 27:25 45:14,15 71:23	contrary 76:21 contrast 88:8 contravening 90:13 contribution 33:17 33:18 control 15:1 37:18 52:24 controlling 78:23 controls 78:12,13 convenience 75:5 convenient 67:23 convert 47:15 conveyance 29:3 34:24 35:1 conveyances 30:23 33:4 cooperate 88:12 cooperated 88:16 88:17 cooperating 18:7 24:17 45:16 52:21 90:9 cooperation 15:18 17:14 corp 77:23 78:21 corporate 85:11 corporation 85:17 corporations 85:13 correct 6:19 11:16 12:18,19 14:20 52:16 60:23 62:5,21 63:3,4 70:23 correctly 60:8 correspondence 24:7 cortland 26:12,13 26:15 cortman 26:23 cosmo 56:1 cost 101:18 costs 27:6 counsel 16:24 21:23 21:24 22:3 25:3 28:14 44:18 45:18 53:3,11 61:8 68:12 69:7 75:13 76:5 78:11,15 80:17	82:14 84:20 87:10 92:20 93:2 100:4,13 101:20 106:23,24 107:16,18,20 counsel's 63:5 counterclaim 11:13 61:2,11,17 country 109:20 county 26:12 couple 14:11 23:16 37:16 73:9 course 21:5 28:17 40:20 56:8 64:8,13 67:22 96:14 106:13 court 1:1,13 6:2,7 6:13,15,20 7:7,22 7:25 8:7,9,12 9:17 10:10,11,11,16,19 10:22 11:10,18,19 11:21,25 12:18,21 13:2,6,9,11,18 14:11 15:7,9,13 16:15,16 17:3 18:1 18:12,16 19:8 24:3 25:16 26:12,24 30:9 30:19 38:14,16 39:6 39:17 40:16,17 47:7 51:8 52:5,10 55:5,8 56:10,17 57:22,23 58:4,12,15,23 59:22 59:24 60:25 61:10 61:23 62:6,8,13,14 63:3,7,16 65:21 66:17 68:6,12,21,22 69:19,24 70:17 71:2 71:5,10,23,24 72:12 73:22,22,24,25 76:8 76:12,25 77:10,21 78:5,18 79:1,8 81:6 81:7 82:7 83:11 84:13,22 86:16 87:12 88:2,4 91:15 91:18,18,20 92:2,7 92:9,10,10 93:15,18 94:2,15,22 95:14,18 96:4,7,9,21,24 97:3 97:6,18,24 98:3,25
--	---	---	--

99:9,11,18,20,22 100:1,6,15,18 101:23,24 102:2,3,5 102:9,10,17,20,21 103:2,11,16,21,23 104:4,6,9,12,25 105:8,15,18,23 106:16 107:3,4,5,8 107:12,18,19,20,21 107:22,25,25 court's 92:15 95:11 courthouse 1:14 courtr 6:11 courtroom 19:9 87:9,17 courts 88:3 court's 18:14 39:12 49:10 created 56:25 80:14 creating 74:21 cred 59:8 credible 52:9 credit 28:8,9 39:18 39:20,20,24 40:2,12 40:18,19,22,25 41:3 41:4,5,9,15,16 43:22 52:25 53:5 54:7,10,13,16,17,23 61:18 66:21 84:17 88:11 creditor 3:11 4:10 7:6,10,12,19 19:3 20:21 23:21 24:5 25:5 26:14 29:9 32:14 46:5,5 47:7 50:20,21,22 58:14 61:16 62:4 64:5 76:19,19 77:15 creditor's 62:1 77:18 creditors 5:10 7:16 8:5,21 9:1 11:3 12:20,23 18:17,24 19:5 20:3 22:16 23:4,5,19 25:5 26:15 32:2,7 36:21 38:23 44:17,19 46:6	46:6,10,10 47:1,1,1 47:5,13 48:18 52:7 55:7,9 58:5,8 60:24 63:7,10,23 64:2,2 64:10,11,15,17 65:2 66:25 69:12 70:24 71:20,23 72:9,18 76:21,23 79:12 81:11 93:22 creditors' 9:18 creditor's 8:19 crew 58:1 crime 9:4,5 17:9 criminal 9:19,20,24 13:4,6,18,25 15:6 16:24 17:24 30:15 31:4,6,7,9,11,13,19 31:23 41:9 42:4 48:4,10 69:2 78:14 91:6 crook 29:13 84:2 cross 62:22 96:16 crystal 19:19 customer 40:12 cut 39:3 d d 6:1 75:19 dash 93:9 date 9:7 18:8 73:22 92:12 109:23 dated 22:10 dates 93:19 96:23 96:25 98:16 102:4 107:13 david 12:11 15:21 26:17 68:20 day 19:7 25:1 30:4 49:16,25 61:3 81:24 82:18 days 19:21 23:15 24:1 26:21 41:2,7,8 54:22 55:13,17 96:23 99:24 103:19 103:19,20 106:23 deadlock 78:25 deal 22:18 29:2 37:1 39:3 44:4	61:24 62:6,9 106:5 dealing 31:22 64:9 65:5,5 105:20 deals 21:17 27:14 27:14,15,15,19 35:9 91:7 dealt 47:20 51:13 death 67:9 debt 9:8,14 12:24 14:8 21:10 23:24 40:4,9,13 50:7 76:3 76:14 debtor 6:17 7:1 8:9 8:16,19,23 10:14,23 11:2,13 47:4,21 62:18 64:1,7,9,12 66:4,5 69:12 72:11 77:17 78:24 79:18 81:6 94:10 95:2 debtor's 66:2,4 76:22 94:9,23 106:24 debtors 1:9 3:3 debtor's 6:24 debts 64:12 85:16 85:17 86:19 december 25:11 32:10 44:17 55:13 decide 30:10,12 37:20 54:11 68:22 81:23 98:13 decided 103:17 decides 43:15 decision 39:12 49:10 62:23 77:6 declarant 96:15 declaration 39:21 39:22 42:15 74:4,18 75:21,22 96:10,11 96:14 declarations 96:11 declare 30:25 defalcation 51:5 defeated 70:25 defend 100:12 defendant 59:1	defendants 12:20 12:25 50:25 87:3 defer 105:13 deferred 55:19 defraud 84:14 defrauded 72:4,5 defrauding 59:6 delineation 27:6 delivered 57:18 demand 16:24 demonstrate 52:19 demonstrated 16:13 demonstrating 60:1 60:1 department 10:5 39:22 53:6 depend 80:6 depending 89:1 92:15 98:13 106:4 depends 80:9 98:25 depose 98:8 deposed 59:4,7 deposit 53:15,15 54:24 deposited 35:9 deposition 13:12 21:1,6 66:10 80:3,4 86:6 92:4 98:5 99:6 101:10 depositions 21:18 23:17 describe 81:9 described 13:18,23 68:24 87:15,18 deserve 47:22 desire 18:14 despite 61:12 destitute 80:12 detail 32:4 74:4 84:5 details 10:6 determination 95:1 103:22 104:21 determine 15:22 31:1 49:10 73:17 93:18 107:9
---	--	--	---

determined 62:19 74:21 determines 107:22 determining 30:22 31:14 development 4:18 7:13 11:6,9,11,14 12:5 19:25 78:21 dictated 28:13 didn't 40:21 42:7 43:11,11 47:22 different 14:3,23 20:17 23:8 75:4 85:18,19 97:5 98:16 differently 87:20 difficult 89:9 difficulty 80:16,17 diligence 85:1,22 direct 77:21 96:10 96:13 directing 67:17 directly 28:11 51:2 64:15,22 66:19 disability 91:8 disbursed 15:10 disclose 90:3,8,8 disclosed 24:13 37:15 41:25 disclosing 14:1 disclosure 17:4 47:6 81:12 84:10 90:24 99:4 discover 90:5 discovered 70:22 82:18 discovery 20:12,13 97:4,4,7,12 98:13 98:23 99:1,11,12,13 99:17,22,23,25 100:2,16,18 103:7 103:12,12,13,14,18 103:20,22 104:6,12 104:13,15,18,21,23 105:3,13,20 106:2 106:15,21 107:6 discrepancy 12:8,9 26:5 60:16 61:7	70:16 discretion 58:25 discuss 13:11 99:16 discussing 103:5 discussion 14:5 disgorge 58:3 dishonest 24:12 dismiss 2:1,5 6:16 6:17,22,25 19:17 39:24 58:11 64:19 77:18 94:9,16,21 dismissal 10:15 12:17 77:14 dispense 101:15 dispose 34:11 disposed 37:20 dispute 11:4,7 12:15 18:21 39:17 42:14 43:18,19 44:4 44:5 61:17,25 62:3 62:9,21 63:13,21 64:19 65:8 68:18 74:13 75:2,6 79:11 82:5 86:14 90:22 91:16 95:4 97:21 98:20 100:16,18 102:12 103:7 104:1 104:4,14 105:18 disputed 8:23 10:21 42:15 disputes 88:5 102:16 distinguish 77:25 distortions 75:12 distributed 16:11 16:12 distribution 14:16 14:21,22 16:18 18:2 18:5 30:7 71:19 76:22 district 1:2 4:18 7:13 11:6,14 77:1,3 77:6,24 78:22,23 99:9 disturbed 56:19,19 dividing 31:14,15	dockets 83:11 document 85:2 documentary 62:16 62:17 82:16 documentation 12:6,10 59:25 60:4 documents 17:13 60:17 73:16 74:19 74:20,20,22 89:21 95:16 96:3,5 99:4 100:6 doesn't 27:2 32:13 32:16 41:14,18 42:14 43:4,7,16 46:13,13,16 doing 33:22 73:6 81:12,14,20 83:9 84:14 90:13 103:8 dollar 60:16 61:3 dollars 14:2,7 32:15 35:11 45:24 83:3 don't 10:6,17 20:3 21:23 22:20 24:1 29:10,20,20 33:2,7 33:22 36:1 37:13,14 41:3,5,13 42:9,19 42:21 43:25 44:1 door 17:20 downstairs 93:10 dozen 69:16 drafted 22:24 45:4 drawer 26:19,19 45:6 83:24 drawing 70:10 drawn 54:19 56:3 93:3 104:18 drive 16:5 due 28:11 64:13 78:24 81:3 85:1,22 99:9 duplicity 84:23,23 d'amato 1:14 e e 1:21,21 2:1 3:1,1 5:19 6:1,1 109:1 earlier 14:13 18:17 21:17,20 29:2 62:1	92:19 100:7,21 103:9 early 21:25 22:14 24:2 34:15 57:7 earned 20:7,19,22 21:16 23:21 29:1 earth 57:8 easier 11:21,22 easily 23:22 east 3:21 eastern 1:2 77:23 eat 93:9 eaten 23:23 69:13 economic 106:19 economics 106:16 ed 3:19 7:20 57:21 education 41:1 edward 2:1 5:16,19 7:14 58:17 effective 79:4 effectively 48:5 50:17 78:24 efficient 101:17 102:13 effort 95:15 efforts 13:19,22 38:1,2 46:19 95:22 eisenberg 56:10 either 9:9 32:3 46:8 67:18 85:21 101:5 103:8 107:9,9 elements 64:8 eligible 18:19 63:10 72:18 else's 46:6 elucidation 52:15 email 24:20 53:5,7 75:19 76:1,2,6,9,11 86:9 emails 19:19 enable 89:7 ended 21:20 53:9 enforcement 12:24 89:23 engaged 20:4,7,23 21:15 27:23 30:25 35:4 45:15 46:19
--	--	--	--

engaging 19:23 27:11 enrichment 51:4 enter 30:1 entered 2:2,7 13:3 22:23 28:3 52:3 entire 10:17 23:20 57:14 77:19 entirety 21:15 32:15 entities 27:4 73:21 83:19 entitled 16:13 22:9 26:12 99:5 100:12 entity 59:8 85:11 envisioned 102:25 equal 76:22 equally 48:5 equitable 14:22 30:7 equivalent 30:16 escrow 35:12 esq 3:8,15,16,25 4:6 4:7,15,22 5:7,16,19 essence 78:9 essential 16:25 essentially 15:20 establish 18:7 estate 26:1 50:8 51:1 57:5 70:6 event 92:4 eventually 16:12 everybody 13:22 107:10 everybody's 6:21 everyone's 97:11 evidence 38:11 61:14 62:16,17 66:9 67:19 68:15 71:12 71:14 75:1 81:22,25 82:17 87:9 92:22 93:6 94:7 95:17 96:4 evidentiary 62:14 63:6,8 70:17 76:15 85:7 91:24 92:6,12 92:13,16,22 93:5,19	93:20,25 94:8,12 95:12 107:11,19 exact 24:24 exactly 60:9 examination 20:18 96:10,13,16 examine 66:16 example 70:5 104:8 104:11 exceed 64:11 69:14 excellent 79:21 exception 68:10 77:8 exchanges 24:7 exclusive 73:20 exclusively 57:6 excruciating 74:4 exercise 10:12 58:25 exhaustive 74:19 exhibit 39:21 40:1 41:20 75:20 94:3 95:15 exhibits 94:1,5,5 95:13,17 97:8 existence 75:16 exists 61:11 exit 72:6,9 expect 36:15,19,24 66:14 expects 36:20 expediency 106:17 expedient 62:11 expedite 96:14 expedited 75:8 expeditiously 92:14 expense 76:21 expenses 69:6,13 70:1,3,7 80:10 105:24 experience 49:7 experienced 90:1 expert 70:8 explain 68:21 explained 80:18 explaining 52:9	explanation 23:6 explanations 34:4 expression 83:24 extended 40:11,18 84:17 extension 40:25 43:21 extensively 44:22 44:22 78:5 extent 6:21 19:3 51:18 52:14 78:9 79:3 80:5 100:15 extremely 78:3 exxon 47:20 f f 1:21 99:21 103:10 109:1 face 42:25 faced 78:21 faces 14:9 facie 68:15 79:14 facing 14:1 fact 8:22 12:5,14,14 12:16 13:24 14:9 18:8 20:7,12 21:22 28:11 34:17 43:16 61:19 62:21 70:14 73:2,8,17 76:9 79:1 81:4 84:6 86:6 factors 10:10,13 facts 45:10 49:12 73:9 factual 61:25 failed 53:12 fair 30:7,21 36:25 38:21 105:23 fairly 52:9 74:17 faith 25:6 32:5 95:22 104:21 107:17,17 fall 68:10 false 73:3 falsehood 76:14 faltischek 3:18 7:19 familiar 41:2 68:7 family 35:25 36:1,6 36:7 80:12 87:7	far 9:15,23 22:24 23:7 25:25 28:21 73:1,6 78:17 82:11 89:23 105:23 107:19 fashion 70:17 father 32:17,19 94:18 favor 9:12 10:14,14 25:4 fbi 90:3,13,15 february 22:15 federal 1:14,15 feedback 95:10 feel 55:11 72:9,12 92:24 107:20 feels 67:9 71:17 72:4,5 107:21 fees 27:3,6 59:20,20 69:17 fellow 21:6 fide 11:4,6 18:20 39:17 43:19 44:4,5 57:4,7 61:16,16,24 62:2,9 63:13,21 64:1,18 65:8,20 68:18 74:12 75:2 79:11 86:13 90:22 91:15 93:22 95:4 97:21 98:20 105:18 fides 107:1 fields 14:3 46:20 fifteen 76:7 fifth 59:5 66:11,13 66:20 78:7,8,16 91:7,23 92:3 figure 17:25 18:1 18:21 61:7,8 70:11 92:14 figures 60:15,15 69:17 figuring 76:7 file 55:15 62:22 63:10 72:18 95:24 filed 2:1,5 6:16,17 8:11,18 12:9 13:1 19:16 25:16 28:5
---	--	--	--

[filed - good]

Page 10

31:24 34:18 37:2,3 39:22 40:18 41:8 42:4 83:18 84:4 89:20 94:1 95:14 96:8 files 26:23 42:13 44:3 filing 14:10 18:18 18:19 filled 39:25 fills 41:15 finality 56:25 finally 41:7 50:19 financial 4:3 106:8 find 36:5 45:17 77:5 83:18 85:6,8 findings 10:24,25 71:12,13 72:15 93:4 93:5 finds 29:18 fine 11:19 47:19 58:15 93:11 101:10 101:23 fingers 67:11 firm 8:4 15:22 20:14 88:17 firmly 66:18 firms 35:8,10 first 6:25 16:23 17:8 19:7,11,12 20:20,22 21:3,12 25:12,24 28:23 32:4 32:7,8 38:12 45:23 55:15 59:11,12 73:5 73:6,10 89:25 93:1 94:9,25 97:16,24 106:3 fit 32:13 fits 97:11 flee 90:9 flexible 79:2 flight 29:13,16 floor 3:21 fly 29:12 focus 8:18 105:25 106:2	focused 92:18 follow 90:12 97:22 follows 73:2 93:24 forced 58:3 forecasted 69:5 foregoing 109:4 forensic 12:3,11 15:22 17:12 42:17 42:24 43:4,5 52:22 52:22 53:2,3,12,25 60:10,15,20 74:3,9 80:20 88:21 forfeiture 13:3,6,7 13:13 30:14 31:8 formal 29:6 former 89:12 forth 31:1 forthcoming 12:5 36:3,8 69:6 fortunately 46:21 forward 36:14,16 38:3,3 47:23 49:3 49:24 50:13 80:2 98:4,17,17 106:12 106:14 found 79:1 84:21 85:23 foundation 95:23 four 57:1 framework 31:19 46:21 48:6,16 56:3 frankly 32:5 48:5 53:6 66:1 67:9 101:1 fraud 9:4 27:10 29:16 33:6 40:10 41:24,24 45:15 56:5 59:2 84:6 87:11,22 fraudster 59:3 fraudulent 29:2 30:23 33:4 34:24,25 free 107:20 friday 55:14 friend 21:8 front 24:9 53:15,17 56:9 67:25 99:9	full 17:3 84:10 90:24 101:4 fully 36:15,15,24 81:20,20 86:10 fund 34:21 funds 14:22 15:2 16:18 33:14 35:9 further 11:17 12:10 53:10,10 69:22,22 69:24,25 95:6 96:7 98:22 100:4 105:19 future 42:12 46:25 47:11 65:17	53:8,21 59:7 65:11 65:19 84:3 91:11 103:23 105:4 given 9:21 10:7 28:9 32:7,9,10 33:1 33:17 41:16 67:13 106:7,10 107:14 gives 30:10,11 87:6 go 10:6 18:14 19:16 36:14,16 38:2,3,13 38:13 48:21 49:3,24 50:13 54:5 83:11,12 83:17 85:13 86:1,4 86:18 88:15 90:20 95:9 98:16,17 105:19 106:12,14 goal 69:21,21,23,25 goes 13:10 27:10,13 29:18 31:8 53:14,16 70:5 75:25 80:2 83:16 89:23 106:4 going 6:22 8:12 11:15 14:21 18:8 20:1 22:7 28:4 29:5 32:2 33:12,13,14,15 33:24,25 34:9 35:3 35:23,24,24,25 36:2 36:7,8,9,10,22 37:23,24,25 38:1 44:12 45:1 47:11,23 48:20,21,24,24 49:2 50:9 56:7,23,25 59:10 63:17 66:15 67:3 69:6,18 70:6,8 70:9,9,10 71:13 72:22 82:23 84:12 85:15 86:2,5,10 87:17 88:24 91:24 92:10 94:6 95:6 96:2,3,13,22 98:14 101:2 102:6,22 103:4,5,8,14 104:13 104:14,15,17,18,25 105:1 106:18 goldberg 5:1 8:4 good 7:3,8,14 8:1,3 8:8 21:7 25:6 32:5
--	---	--	---

40:6 43:6,8 88:24 93:15 95:22 99:20 104:20 105:10 107:17,17,23 google 83:12 googled 85:23 gorilla 33:9 govern 17:19 government 26:21 29:7 89:25 90:2,7,7 90:15,17,18 grab 93:9 grabbed 34:15 grand 5:11 7:16 great 47:13,25 64:25 grohman 21:1,1,5,8 21:11 23:10 26:14 35:13,15,16,18 grohman's 21:7 gropper 64:25 ground 12:16 95:3 grounds 65:22 group 17:8,11 20:4 20:11,16 21:14,15 21:19,23,24,25 23:8 23:12,21 24:5 25:5 25:17 26:9 27:17 28:12,22 29:9,10 31:25 32:6,15,22,23 32:24 37:13 38:23 44:18 48:3 50:21,22 50:22 55:24 56:20 71:17 72:4,5,8 groups 9:1,11 grow 69:18 growing 56:14 grows 70:12 guess 34:23 35:8 88:14 90:17 101:10 guilty 9:3,4 59:5 guts 22:5 guy 23:11 32:19 35:18,19 43:9 guys 45:19,20 49:25	h h 2:5 hackensack 4:20 haim 20:21 half 20:24 27:9 31:25 36:11 46:11 56:16 71:4 72:21 halt 87:4 hamilton 5:13 hand 72:11,12 80:1 handed 18:11 handle 18:22 31:17 handled 38:17,18 hands 54:18 happen 38:8 49:6 56:2 104:13 happened 41:25 54:25 56:2 67:14 70:20 84:24 happening 82:22 happens 15:3 18:4 30:15 70:11 happy 50:13 97:1 97:10,13 100:23 101:8,19 hard 15:19 16:4 78:10,11,14 80:13 80:15 88:20 hashanah 19:21 haven't 8:24 he'll 67:11 head 31:25 34:10 hear 8:9 18:16,23 55:6,8 58:13 63:17 68:5 75:1 81:25 91:16 97:13 heard 19:6,7,11,12 52:7 56:22 59:11 66:7 68:24 75:12 81:8 91:14 106:20 hearing 2:1,5 56:15 62:15 63:6,8 66:1 66:15 67:4,18,23 68:20 75:1,7,8 76:15 80:2 81:22 82:16 85:7 90:25 91:21,23,24 92:6,12	92:13,16,23 93:5,19 93:20,25 94:8,12 95:8,13 97:5,15,16 97:20,22 98:2,22 99:2,7,10 100:2 101:16 106:4 107:11,19 hearings 98:16 heck 26:3 held 11:3 16:10 53:16 77:4 help 15:20,22 42:11 46:25 80:9,10,10,11 88:23 helping 32:20,21 88:19 hey 28:7 he'd 42:15 47:23 he's 12:6 14:1 24:11 29:13,13,13,16 32:21 36:8,22 41:16 hid 83:25 hidden 36:4,5 68:3 hide 57:13 66:19 74:1 84:2 hiding 91:3 high 69:8 hindered 13:25 hired 12:4 88:21 history 31:12 67:13 hit 55:13 hold 11:13 16:17,17 18:15 37:17 57:24 62:14 66:1,15 67:19 67:22 93:22 98:15 107:9 holder 11:12 holders 58:9 holding 14:15 15:9 30:5 50:1 holds 54:20 holiday 19:21,22 holidays 84:22 hon 1:22 honest 24:11 58:24 honesty 68:1	honor 6:14 7:3,8,14 8:1,3,8 19:1,6,16,18 19:20,24 20:1,11,16 21:14,18,22 22:7,8 22:12,22,24 23:6,14 23:22,25 24:6,19,25 25:10,13,25 26:6,10 26:21 27:8,9,22,24 28:5,10,17 29:6,10 29:11,15,17,21,22 29:24,25 30:14,17 30:18 31:3,5,8,19 31:21 32:1,4,10,12 32:14,25 33:7,11,24 34:1,5,5,13,17 35:2 35:5,13 36:9,12,13 36:19 37:2,8,11,13 38:3,6,7,22 39:3,4,9 39:9,11,18 40:5,10 40:15,22,24 41:1,21 42:2,13,23 43:1,19 44:5,6,7,9,13,13,25 45:12,17,22 46:3,7 46:13,17,17,21 47:14,16,20 48:2,22 49:5,7,19,22,23 50:10,19 51:14,22 51:24 52:1,14 58:16 63:12,24 64:14,23 65:4,7,11,13,21 66:6,9,11,14,15,18 66:23 67:3,4,12,21 67:25 70:18 71:7 74:11 76:9 77:7,22 79:22 81:23,24 84:7 84:7 87:13 90:24 91:8,19 93:13 97:14 97:20 98:11,12,15 98:19 101:1 102:6 102:11 honor's 91:25 honorable 36:25 honored 65:15 honor's 44:8 hope 42:10 43:24 47:10 65:16 95:21 95:21
--	--	--	---

hopefully 75:7 88:21 100:3 hopes 88:14,15 hoping 18:3 horrible 37:23 39:7 81:14 horribles 81:14 horrified 56:22,23 57:15 host 52:23 hotel 11:23 hour 56:16 71:4 72:21 hours 22:4,4,5 huh 68:11 hundreds 67:1 huntington 3:6 hurt 35:5,6,7 38:23 38:24	incredible 24:7 incurred 70:1 incurring 85:16 independent 80:20 index 26:16,24 indicated 12:12 indirectly 64:21 indiscernible 6:9 21:25 28:25 32:16 47:21 49:20 51:5 58:4 60:3 67:8 71:24 79:17 82:12 92:5 99:9 individual 50:25 51:6,9,11 54:6 individuals 57:1 inescapably 56:3 inflexible 91:10 influence 31:1 informally 101:21 106:14 information 12:6 29:24 42:25 43:14 59:7 61:20 103:23 106:23 initial 68:14 injustice 91:16 ins 39:13 insider 30:25 insists 81:24 instance 104:5 institution 17:24 instructive 77:22 78:24 integrity 68:1 intelligent 82:13 intend 96:1 intended 31:10 intentional 73:4 interest 14:4 27:5 69:11 71:22 75:23 88:12 90:23 interested 5:10 7:16 7:19 55:7,9 56:20 58:14 interests 8:19 9:18	interrupt 107:20 interruption 72:22 intertwined 106:7 interviews 74:20 intimidated 68:25 69:20 introduce 96:4 introduced 94:6 inundated 44:8 invested 20:6,17 21:4 23:10,11,11 57:1 58:3 investigate 36:18 investigated 37:14 37:15 investigating 90:4 investigation 37:24 42:24 investments 20:10 21:9 23:9 57:4 investors 20:6,8 55:25 57:21 invite 29:25 invoke 78:16 88:5 involuntary 8:20 18:19 62:25 63:11 64:5,7,8,17 68:9 72:19 77:16 91:5 involve 97:16 involved 20:20 21:9 21:25 23:8 38:16 46:22 65:1 69:6 82:6 106:19 involvement 55:23 involves 6:20 82:7 irs 18:10 island 55:16 56:1 islip 1:16 isolated 55:17,20 56:20 israel 24:15 issue 8:12,14 11:11 18:18,20,22 58:23 58:24 60:21 61:9,10 61:14,15,23 62:7,18 62:18,19,24 63:2,9 63:18,19 64:20	69:20 72:17 76:16 77:7,12 79:5 83:15 89:9 91:23 92:1,2,3 94:22,25 95:18,20 97:6 100:1,5 101:7 101:21 103:24 106:5 107:1,13 issued 41:22 issues 63:15 93:21 94:19 95:5,6,11 106:20 item 52:20 items 19:12 it's 9:18 11:5,8,10 11:21,23 13:24 18:3 18:4,19 19:21 23:7 23:10,18 24:2 26:3 26:4,5 29:22 30:3,3 30:5 31:10 32:4 33:9 34:25 37:23,24 37:25,25 38:11,21 39:4,18,24 40:1,2 41:1 42:22 44:25 45:3,8,12,17,22 46:1,3 47:6,7,10 48:10,11 49:8,8,9 49:13,14 i'd 8:9 18:16 i'll 6:21 19:4 32:10 33:10 39:3 42:11 i'm 6:7 7:8 10:24,25 11:1 13:5 18:8 25:14 31:6,7 33:3 33:13 35:5,23,23,24 35:25 38:9 40:25 41:2 42:6,9 43:23 44:12 87:8 i've 10:8 23:14 38:6 38:7 47:20
i			j
idea 59:10 73:23 87:16 99:20 identified 15:18 17:10 28:18 89:14 identify 17:10 ignore 70:15 ignored 23:20 imagine 90:25 immediate 49:15 immediately 58:5 88:1,2 immunity 66:17 import 92:18 important 23:7 29:19 73:10 75:10 78:1,3 impossible 73:14 inaccurate 43:15 incentive 76:20 include 32:16 included 20:16 including 22:13 incomplete 33:3 42:25 43:15,17 inconsistent 74:23 incorporate 100:2			jacob 4:7 8:1,2 22:14 30:11 45:3,13 45:25 46:4 50:14 67:7 jacobs 24:20,22 jacob's 25:1 46:8

jail 88:15 jannuzzi 3:8 7:1,1 8:8,17 10:18,20 11:8,16,20 12:1,22 13:5,8,10 16:21 18:13 24:8,20 25:2 25:8,22 26:4 44:3 45:18 46:1 59:25 60:4 61:6,15 62:5 63:1,4 65:11,19 66:1,8 67:5,6,18 68:5,13,19 70:3 71:11 79:13,15 80:18 91:19,21 92:3 92:8 99:3 100:4 101:9 jannuzzi's 24:21,25 25:3 31:5 48:23 jazzunni 15:5,8,11 jeopardy 78:15 91:6 jeremy 4:22 7:11 jersey 52:24 job 52:9 83:9,10 joe 20:17 joel 5:7 8:3 join 77:19,20 joined 77:18 78:2 joint 94:3 95:15 102:25 103:3 107:6 jonathan 3:16,19 7:5,20 57:20 jordan 21:7 joseph 3:11 7:6 19:3 63:14 73:11,23 74:9 80:6,15 judge 1:23 7:11 8:17 10:2,7 11:9 12:1,22 13:5,21 17:22 18:13 24:9,10 24:10 25:1,24 29:12 31:16 36:3 45:14,25 46:9 51:9 52:8 55:6 55:10 56:10,22 57:1 57:18,22 58:11 60:5 61:6 62:5 64:25 68:5,19 69:10 70:4	71:1 72:20 74:18 84:24 86:11 91:2 96:19 99:3 100:4,20 105:5,11 106:6 judgment 22:10,23 22:24,25 23:2 25:16 26:7,11,17,18,25 27:1,18 28:2,6,12 33:15 40:7,16,18 45:4,6 62:22 72:25 83:21,23 84:7 judicial 16:22 88:5 june 24:8,10,21,21 24:23 25:8,20,24 26:6,8 29:11,16 36:3 45:13,13,19,23 jurisdiction 10:11 10:12	71:11 72:8,21 73:1 73:2,12 76:5 81:9 81:24 82:6,11,19 83:2,5,9,16,22 84:19 86:18 87:20 89:12,24,25 91:1,11 97:14,19 98:1,4 102:6,19,23 104:1,5 104:7,10 105:11,16 106:1,18 107:2 kirshenbaum's 84:11 92:5 klausner 4:22 7:11 7:11 11:22 39:12 52:8,14 67:21,23 100:9,20 knew 31:23 40:21 40:22 50:1 56:1,4,5 84:1,11 86:2,10 90:15 know 10:6 14:14 20:3 21:23 22:21,24 23:7 24:1 25:25 27:20 28:2,21,22 29:10,10,20,20 30:17 31:7,7 33:7,8 38:8 40:21 42:11,17 43:9,10,11,11 44:1 44:7 47:3 48:25 49:6,7 50:16,16 51:19,22 52:23 53:22 60:5,6 63:5 73:1,7 77:7 80:25 81:13 82:11,23 83:25 85:1,1,17 86:13,18 90:1 91:14 94:3 95:19 96:5,9 98:19 99:15,22 101:10,12,14 102:15 106:9 knowing 44:25 knowledge 12:22 19:15 known 84:16 86:4 86:15 knows 20:2 22:12 26:8 27:10,11 38:8	39:13 47:14 50:15 89:24 101:4 kostel 20:14,19 23:17 kramer 4:9 7:9 kwestel 58:18,18
l			
lack 32:5 75:11 107:10 lacking 77:16 laid 84:4 100:19 lamb 25:2 land 29:21 language 83:20 84:8 87:14 92:18 large 40:3 larger 38:19 las 1:3 lastly 62:20 late 20:1 34:3 49:18 81:17,17 latitude 65:12,19 law 4:9 7:9 8:4 10:8 30:17 31:12 32:17 32:19 35:8,10 53:7 53:8 63:24 64:3,6 64:14,22 65:22 77:1 87:3 89:23 94:18,20 lawsuits 12:25 15:3 28:18 34:1,1,2,7 83:13 87:4 89:20 lawyers 20:19 42:18 42:19 55:18 lay 29:21 learned 56:15 83:12 learning 82:20 leave 46:17 54:2 leaves 53:24 left 19:9,10 36:13 51:25 71:21 legal 61:25 69:17 legitimate 57:4,7,21 lend 79:4 length 64:4,25 lester 3:15 7:4 19:1 letter 24:9,22,25 25:1,8,23 36:2 42:2			

43:22 46:8,8 65:15 102:3,5,9,20 103:1 103:3,16 104:25 105:2,8 107:6,8 letters 45:14 89:11 89:17 102:15,18 let's 14:19 22:18 38:13,13,15,15,16 level 56:18 leverage 79:25 80:15 88:15 levine 7:9 81:2 liability 8:23 10:21 11:4 12:15,15 61:25 74:14 75:16 76:3,13 90:23 lie 45:15 lifeler 3:19,20,20 7:20,20,21 57:20,21 lift 51:10 light 35:6 81:23 91:12 94:24 100:7 limit 102:22 limitations 91:13 limited 65:25 line 55:13 90:21 liquid 15:19 liquidated 29:24 88:20 89:5 liquidating 45:9 50:2 lisa 4:15 7:8 list 27:2 32:2,7,13 32:22 90:10 94:1 95:13,25,25 listed 94:6 listen 68:12 72:24 92:20 listeners 56:14 listing 45:24 lists 23:3 27:3 32:12 32:23,24 literally 31:20 41:7 49:17,17 51:25 litigation 20:15 40:15 41:7 59:12 69:13	litigations 37:25 little 8:15 11:21 18:24 20:12 49:8 52:15 live 85:18 living 80:9 llc 2:6 3:20 7:21,24 8:5 12:4 llp 3:10 5:9,11 7:17 58:18 locke 4:1 7:23 8:2 22:19,25 23:2 24:5 24:7,9 25:2,4,6 26:18,23 32:8 34:18 34:20 44:16,23 45:1 45:8 48:19 49:24 50:5,12 59:20 68:25 78:12 81:21 82:2,8 82:17 83:1 87:23 locked 83:24 lohrrfink 5:9 7:15 58:17 long 34:9 38:7 51:23 55:16 56:1 71:4 90:16 91:21 103:13,22 104:6,15 104:16,18,22 longer 104:19 106:25 look 10:10 34:6 62:13 71:10 73:10 75:10 77:1 84:9 86:18 89:22 91:2,3 100:25 looked 12:6 38:10 48:20 54:3 57:16 60:21 70:22 looking 10:8,12 58:1 60:14 67:15 looks 39:16 40:2 looney 2:25 109:3 109:13 lord 4:1 7:23 8:2 22:19,25 23:2 24:5 24:8,9 25:2,4,6 26:18,23 32:8 34:18 34:20 44:16,23 45:1	45:8 48:19 49:24 50:5 59:20 68:25 78:12 81:21 82:2,9 82:17 83:1 lord's 50:12 87:23 lose 41:17 loser 17:16 losers 16:8,14 17:16 loses 53:22 loss 9:6 losses 90:18 lost 17:16 20:24 35:13,21,22 101:5 lot 26:3 28:10 34:4 34:7 35:4,8 38:24 44:9 45:21 48:21 49:8 65:4 louis 1:22 love 49:19 lowey 3:19 7:20 36:23 57:21 m m 1:14 3:15,16 4:22 madoff 31:12 55:13 55:13,16,21 56:1,2 88:8,9 madoff's 31:13 magically 26:22 29:15 magro 5:9 7:15 58:17 mail 9:4 main 9:1 69:23 major 19:23 46:19 46:19 making 10:24,25 35:5 71:12 72:15 75:18 93:2,4 man 82:13 management 2:6 4:2 6:18 7:24 12:4 managers 8:5 march 26:20 39:25 40:5,11,24 41:6,23 marina 4:18 7:13 11:5,8,11,14,17 12:1,5,9	marionette 78:13 mark 3:25 7:18 marker 54:9,14,20 54:22,25 markers 41:10,11 41:16,23 55:1 101:6 market 64:24 marketing 77:23 marks 77:8 material 62:21 math 23:14,15,18 matter 1:5 9:19 13:24 40:19 53:9 84:20 86:22 106:22 mattered 60:6 matters 96:14 maximum 9:5 mcandrew 5:9 7:15 58:17 mddc 11:15 mdtc 76:1 mean 31:12 42:22 42:25 43:10 54:10 77:9,10 104:8,11 106:24 meaning 64:16 measure 65:12 mechanism 14:16 16:16 59:11 meet 68:14 104:25 105:1 meeting 104:20 melissa 2:25 109:3 109:13 member 23:8 39:6 members 17:7,11 17:19 21:19 27:3,4 28:22 29:4 mentioned 14:13 18:17 52:11 89:12 message 57:19 met 8:24 22:1,4,4 44:22,22 method 13:17 michael 3:8 7:1 middle 78:14
--	---	--	--

[million - obligated]

Page 15

million 9:2,6,7,8 12:13 14:14,15,17 14:18 15:4,5,7,10 15:10 18:9 20:22,24 21:2,10 23:5,18 25:12,19,23 26:3,4 26:5,14 27:2,4,5 29:1 32:15 34:20 35:14,14,20 40:7 45:7 46:1,2 50:1 57:2 58:1,2,5 59:13 59:14,15 60:16,24 60:25 61:2,5,19 70:4,23 73:13 83:3 86:20 89:3,3	43:23,25 44:1,2 46:19 50:6,6,8 52:17 53:14,15,18 54:2,12,12,13 55:4 55:4 58:6 59:10 60:2,19 61:12 65:16 66:21,23 69:7,8 70:6,11,21 73:20 75:25 79:24 80:7 81:5 83:1,2 84:3 85:5 86:9,19,20 87:6,6,10 88:13,14 89:7,11,16 100:11 101:3,5,13,13,14 105:21 106:11	mushroom 69:12 music 21:21	news 55:13 nicholas 56:1 nicole 2:25 109:3,10 nine 18:10 nj 4:20 non 31:6 102:21 103:3 107:6 nonsense 84:15 northern 5:2 8:5 50:21 note 23:7 70:15 77:1 noted 81:6 notes 65:23,24 notice 85:15 noticed 98:5 notify 102:3 notion 46:18 57:16 notwithstanding 21:22 47:12 65:12 65:18 november 20:1,1 32:9 34:21 44:17 58:20 68:3 82:1 number 6:4,12,15 6:16,17,24 16:20 20:5 21:3 22:8 26:16,24 60:3 67:14 73:19 74:6 83:19 86:13,21 88:10 89:1 89:2,4,13 103:19 numbers 67:1 numerous 21:16 89:18 ny 3:6,13,23 4:4,13 5:5,14 109:22
millions 14:2,7 35:10 45:24 67:2	monies 16:25 17:5 21:12	n	o
mind 64:24	monitored 10:5	n 3:1 6:1 109:1	o 1:21 6:1 109:1
minders 59:19	monitoring 9:25	name 20:17,21 21:6 22:13 85:23	o'clock 93:25 105:8
minding 59:19	13:19	named 58:25	oath 20:18 21:6,11
mineola 109:22	month 25:10	names 75:4	object 77:16
mini 56:1	months 18:10 22:8 22:11 25:12 27:1 28:13 34:22 40:6 44:22	narrow 62:19,24	objected 78:2
minimize 77:9,10		nassau 58:19	objecting 95:3
minimum 73:18 74:8,23	moot 77:13 105:21	nature 16:2 61:17 65:20 71:18	objection 69:23 94:4 98:6
minute 58:3 73:4 86:2	moral 81:8	necessarily 19:10	obligated 17:3
minutes 73:5,6 92:25	morning 7:3,8,11 7:14 8:1,3,8 19:7 44:14 56:11,17 99:19	necessary 59:2 88:6 88:23 99:22 107:21	
misinterpret 92:17	moscou 3:18 7:18	need 8:10,12 9:9 36:1 41:3,5,9,13 49:15 59:16 67:25 68:1 72:17 73:9 80:7 90:12 91:22,25 94:12 98:22,23 99:3 99:25 100:5 102:8 103:13,14,19,19,19 104:2,22 105:3 106:14 107:9	
missing 43:10	motion 2:1,5 6:16 6:17,22,24 8:18,18 19:17 39:23,24 58:10 62:22 64:19 69:10 70:20 77:18 77:19,20 78:2,3 94:9,13,16,21	needed 84:2 85:10	
misunderstood 12:18		needs 39:10 48:21 50:16 69:9 70:12,16 70:22,22,25 72:6 78:16 83:10 103:18 104:22	
modus 28:16	move 97:1 98:4	negotiated 89:18	
moment 11:1 68:6 97:15	moved 77:14,18	neiger 2:2 5:19 17:22	
monday 44:3 93:24 95:12 99:8	mulholland 3:25 7:18,18 36:22 55:6 55:10 57:25	neither 9:11	
monday's 95:8	mulholland's 94:13	net 9:6 16:8,8,14 17:16,16 61:7,7	
money 14:19,24 16:7,7,7,9,10,11,12 17:17,23,24 18:2,6 22:18,19 26:2 33:16 33:18,18,20,21 35:18,21,22 37:5,6 37:20 41:4,13,14 42:7,8,9,20,20,21	murray 3:20 7:20 57:20	never 17:20 19:14 22:3 31:10 41:25 53:2,4 60:18 61:18 61:18 76:10 84:17 98:6	
		new 1:2,16 3:13 4:4 5:5 19:8,10,25 26:12 27:24 52:11 52:24 78:22	

obligation 17:1,6 24:23 46:5 75:24 obligations 82:3 obtained 17:13 obtaining 74:20 obviously 6:23 19:7 28:8 35:19 39:11 60:10 66:25 occasion 46:4 occurred 27:16 85:8 october 109:23 offer 101:20 offered 100:23 office 4:9 7:9 10:1 33:12 83:17,17 officers 88:4 offset 61:3,4 oh 6:13 43:16 46:17 oil 14:3 46:20 47:21 okay 11:18,20,25 38:2 42:23 49:25 53:9 68:19 77:12 93:18 100:15 107:2 107:3,22 old 109:20 once 14:5 88:18 104:13 ones 37:12,21 67:10 ongoing 47:10 opaque 68:2 open 19:14 operandi 28:16 operate 47:22 operating 84:14 89:6 opinion 12:7 opportunities 57:5 opportunity 9:21 55:15,24 57:11 66:16 oppose 58:10 70:13 101:11 opposed 51:1 102:15 opposing 64:17 67:20	opposition 5:11 7:16 19:17 37:3,4,4 39:23,23 option 80:22 oral 10:17 order 13:3,6,7,13 18:1 30:1 36:14 48:9 49:23 52:3 68:1 79:15 94:6 96:1 97:6,6 100:1,6 100:16,19 103:24 107:13 ordered 23:13 ordinary 64:13 originally 12:7 outcome 49:11 outlines 105:2 outrage 81:8 outrageous 82:8 outs 39:14 outset 15:17 outside 16:15 34:22 34:25 50:7,18 51:12 51:19 81:13 87:17 outsiders 53:1 outstanding 20:9 27:22 outweigh 21:20 overall 50:4 overseas 24:14 45:16 oversight 16:22 29:22 59:21 overview 8:10,15 18:23 19:4 overwhelming 49:14 owe 23:5 27:4 33:15 33:18,21 41:14 42:7 42:7,20,21 43:16,23 43:25 44:1,2 45:7 46:4 52:17 55:3,4 61:4,19 65:15 66:21 66:22 75:24 79:24 88:13 100:11 owed 9:2 12:16,24 16:7 21:2,21 32:14	60:20,20 61:18 66:24 68:15 73:13 73:21,23 74:10,13 76:11 83:1,2,2 86:12,15 87:6,10 owes 33:20 41:4,13 42:20 43:16 52:18 60:2 81:4 86:19,20 86:20 101:3 owing 23:19 61:12 <p style="text-align: center;">p</p> p 3:1,1 6:1 p.c. 3:18 4:9 7:9 p.m. 94:1 95:13,19 95:24 96:12 107:3 108:3 page 40:3 75:17 103:16 107:5 pages 102:22 paid 9:7,24 14:15 15:6,7 18:7 39:1 72:3,5,6 85:10 paper 19:19 22:9,9 25:14 26:11 33:21 42:14 44:3,8,9 45:23 90:5,19 papers 12:3,8 14:13 19:16 34:17,18,20 60:9 62:14 64:4 70:20 75:10,13 paperwork 35:17 paralyzed 78:10,19 78:24 79:3,7,9,9,11 parameters 92:13 parents 57:20 park 3:4,12 part 10:20 16:9 32:22,23,24 51:12 57:5 59:3 69:10 73:4 75:23 89:4 98:9 101:15 partial 25:15 28:3 partially 25:18 participant 81:22 participants 57:10 participate 16:18 17:17	participated 57:6 83:5 participation 79:4 particular 8:22 13:15 19:2 31:21 62:18 96:15 particularly 97:12 parties 7:20 8:25 10:1 17:14 58:14 72:1 75:7 89:18,19 93:20 94:2,4 95:10 95:14,21 96:9 97:1 97:4,13 99:1,16 100:3,16 104:20 partner 89:13 party 5:10 7:16 50:23 59:1 party's 71:15 pass 95:2 passed 22:25 pastak 5:12 7:17 patience 71:5 93:1 paul 4:10 7:10 pause 6:3 93:17 pay 33:13,13,14 41:18 42:7,11 43:24 45:1 46:25 47:5,13 48:18 54:23 65:16 65:16 69:9,14,21 80:9,10,10,11 83:1 86:19 payer 44:14 paying 13:19 64:12 69:8 85:16 payment 50:7 85:11 payments 80:11 pending 9:19 12:20 56:9 pennsylvania 77:24 penny 2:25 66:24 109:3 people 16:8,13 17:8 17:11 19:9 22:19 32:8,23 35:4,7 38:24 42:6 51:18,20 51:24 52:25 69:21 82:18 84:3,14 86:8
--	---	--	---

86:19 87:24 88:13 89:14 90:5 percent 9:14 18:3 perfectly 47:19 50:13,13 performing 92:22 period 23:25 24:2 28:13 34:16,22 35:1 40:1 50:8 54:21 103:14,18,22 104:6 104:16,22 perjury 42:16 permit 29:12 81:24 94:16 permitted 90:2 perpetrated 84:1 perpetrating 87:11 perpetrator 88:10 person 15:1 20:16 21:8 27:7,7 37:7 38:9 39:21 60:10,11 personal 38:2 75:23 personally 83:9 persons 37:5 persuaded 97:20 98:20 petition 9:13 10:15 12:17 38:15 62:25 64:5,7,17 73:12,15 73:18,22 74:7 77:17 87:11 91:5 petitioner's 76:18 79:6 petitioners 9:13 10:14 73:16 80:7 81:10 84:21 87:11 90:21 petitioning 3:11 4:10 7:5,10,12 8:25 11:3 12:19,23 18:17 18:24 19:2,5 36:21 52:6 62:1,3 63:7,10 63:22,25 64:2 65:2 72:9,18 79:12 93:22 ph 3:19,19 4:10 5:12 20:14,17,21 21:7 25:3 37:2	45:13 56:1 59:8 100:11 phone 102:23 pick 86:21 picture 16:6 36:10 pie 13:23 piece 22:9,9 25:13 33:21 44:3 45:23 pieces 19:19 pinsky 20:17 28:23 place 4:19 13:16 14:10,12,16 16:16 16:22 59:16 71:1 78:10,11,14 80:13 80:15 plain 46:9 plains 5:14 plaintiffs 59:6 plan 47:5,6 planning 99:21 103:10 played 87:20 playing 81:21 plaza 1:15 3:22 plea 13:17 pleadings 8:11 96:7 96:8 please 6:2 15:14 43:8 93:15 101:24 pled 9:3,4 59:5 pledge 88:24 plethora 8:11 pllc 5:1 plus 15:4 27:5 52:1 55:25 86:12 pocket 53:23 pockets 88:13 point 10:7 13:11 17:23 25:13 33:11 40:13 50:19 55:7 71:7 85:9 89:7 91:22,25 92:17 94:15,15,20 100:9 100:11,13,22 103:2 105:23 106:17 107:15	pointing 88:21,22 points 32:5 34:19 policy 76:22 ponzi 9:2 20:5,8 27:11,15 31:17 38:10,11,12,18 44:19 57:3,10 58:21 82:4 84:1,5 85:23 88:7 pool 70:10 portfolios 15:19 position 60:22 63:5 63:13 77:13 91:2 positions 71:16 possible 16:6 34:10 75:9 81:12 101:25 106:9 possibly 14:4 43:20 48:3,4 99:6 potential 17:15 30:24 potentially 101:15 practical 78:4 practiced 30:17 pre 97:8 103:11 107:11,11 precisely 78:20 preclude 48:17 predicament 91:4 prefer 71:22 preference 34:22 50:7 71:22 76:20 83:15 106:6 prejudiced 51:15 51:15 prejudices 37:1 preparation 98:9 prepared 37:5 61:9 65:11,18 95:7 present 76:9 77:17 96:15 presented 97:2 presenting 68:14 presently 9:19 pressure 36:6,7 pressured 36:8	presumably 45:9 presuming 68:13 100:21 pretty 46:7 prevent 81:12 prima 68:14 79:14 primary 46:5 principle 58:2 77:2 77:5 principles 48:7 prior 17:23 40:12 64:4 99:6 private 34:9 55:16 56:4,5,24 pro 16:12 18:2,5 probably 13:14 35:3 93:9 102:13 probation 10:5 problem 78:19 84:4 86:11 101:9 procedure 9:20 13:16 14:9,12 47:4 47:4 procedures 17:18 56:24 proceed 48:13,14 92:13 96:10,11,13 97:8,24 101:20 106:21 proceeding 8:20 13:1 31:10,19,24 48:15 55:19 56:9,12 56:21 58:4 63:19 72:10 86:24,25 87:3 87:16 proceedings 78:15 79:4 87:5 108:2 109:5 proceeds 9:23 15:3 16:14 18:10 41:17 process 16:9,10 17:2 19:14 25:7 30:20 31:3,4,8 37:6 37:24 38:2,6,20,21 39:7 48:10 49:3 51:13 68:2 71:18 83:5 87:18 88:6
--	---	---	---

<p>93:23 95:11 104:19 produce 14:7 100:6 producing 14:6 production 14:3 profit 28:24 89:8 profits 20:7,20,22 21:5,17,20 23:20 29:2 47:12 program 71:25 72:13 prohibiting 76:19 prohibition 100:22 promptly 101:25 proof 68:17 79:16 proper 37:6,7,10 properly 31:18 55:18 70:18 propose 68:16,17 102:3 prosecute 56:11 prosecution 13:25 91:6 protect 76:20 protecting 45:19 protection 24:4 proud 88:17 proven 49:19 provide 16:5 52:15 100:24 101:8 107:4 provided 16:4 17:13 provides 106:24 proving 49:14 provision 46:23 psychology 67:15 public 84:20 publicly 25:25 41:25 57:2 83:11,18 89:20 pulled 69:4 pump 89:6 puppeteer 78:13 pure 71:11 84:14 purported 10:23 11:2 purpose 8:17 30:20 37:9 76:17,18,23</p>	<p>87:5 purposes 58:9 61:21 69:9 70:12 78:4 pursue 51:11 pursued 12:23 59:15 pursuing 30:23,23 30:24 pushing 37:8,9 put 12:2 13:16 16:16 37:23 40:4,4 40:19 47:5,5,6 58:6 58:22 59:22 61:14 65:8 66:8 67:19 70:16 77:8 84:8 85:15 88:13 89:16 puts 69:22 putting 51:16 94:20</p>	<p>raised 14:2 18:20 60:20 62:10 92:4,6 93:21 ramping 55:18 ran 57:3 range 73:19 rata 16:12 18:2,5 ratable 14:21 16:18 30:7 rate 32:12 rationale 98:19 rattling 58:20 reach 89:7,19 92:21 95:4 reached 68:21,22 reaching 92:19 read 76:6 real 26:1 57:5 58:6 realized 9:9 really 24:17 36:6 41:1 42:6,10 43:24 47:9,9 48:25 49:6 58:23 65:21 67:15 86:21 103:5 104:19 realty 8:5 26:13,13 26:15,23 reason 34:7 41:4 47:22 89:4 98:19 reasons 98:7 received 16:7 18:6,9 34:21 89:15,16 recess 92:11 93:7,14 99:16 recognizing 77:11 reconvene 92:11 93:12 record 39:17 43:7 44:6,9,11 49:13 52:2,12 65:12 73:13 73:15,22 74:11 75:2 84:21 91:14 109:4 records 15:25 16:1 22:6 33:1,2,2 43:6,8 43:10,12,17 44:23 52:18 53:5,11 60:12 60:13,14,22 61:13 89:15 100:22,24</p>	<p>101:2,2,8,12 recover 89:10 recovered 17:1,5 88:20 recovering 15:2 recovery 2:6 4:2 6:18 7:24 12:4 17:18 71:24,24 72:12 redeem 54:22 refer 75:14 reference 55:12 referencing 68:8 reflects 73:13 regard 20:13 80:24 regulations 52:23 100:7 regulatory 90:12 reiterate 93:3 reiterated 24:22 related 70:25 relates 10:21 relationships 106:8 relatively 88:9 relevant 75:23 relied 10:9 relief 10:15 49:23 52:3 religion 84:22 rely 75:18 76:17 80:20,21 relying 44:7 99:5 remain 49:16 remaining 59:15 remains 56:9 remarkably 84:9 remind 107:16 repay 20:8 repeated 74:6 repeatedly 81:16 repentance 19:24 reply 34:18 report 10:1 88:1 reporting 13:20,20 103:11 reports 9:25</p>
	<p>q</p> <p>qualified 60:5,11,21 quality 93:10 quasi 87:16 queens 26:12,24 40:16,16 41:7 question 8:22 10:16 11:12 15:12 18:4 52:19 59:18 66:19 68:13 79:8,21,22 questions 10:22 14:11 57:19 78:7 91:17 92:19 96:17 107:21 quickly 34:12 55:19 65:25 67:23 75:9 97:1 quiet 33:22 quite 53:6 58:21 86:16 101:1 quotation 77:8</p>		
	<p>r</p> <p>r 1:21 3:1 6:1 109:1 radical 71:19 raise 33:14 64:20 105:12</p>		

[represent - secret]

Page 19

represent 7:5,10,15 7:19 19:2 58:18 89:6 represented 9:12 22:3 28:14 50:22 representing 7:12 46:9,12 67:6 69:2 87:25 represents 9:6 22:19 37:5 39:13 request 35:16 39:19 39:20 43:3 104:2 requests 53:10 required 8:21 54:24 requirements 8:24 requires 54:21 requiring 76:22 resolution 44:14 89:20 101:24 102:14 105:16 resolve 12:9 88:5 101:16,21 102:12 106:13 resolved 75:9 104:2 resources 84:19 respect 8:21 10:24 11:8 12:1 17:7 18:1 18:20 19:14,15 35:17 39:10,14 42:24 62:2,8,10,24 63:1,13,18,21 68:8 68:10 70:16 74:15 76:15 79:5,13 80:19 80:22,23 81:1,3,16 81:25 84:25 88:7 91:10 93:21 94:8,10 94:11,12,13,16,19 94:23 95:1,5,10 96:3 97:7,16,22 98:8,14,22,23 102:16 103:12 105:13,20 106:2,25 respectfully 65:7 67:4 respects 77:20 respond 59:8	responded 45:18 responding 25:1 34:19 response 25:22 74:6 76:19 79:22 98:10 responsible 90:17 rest 22:7 restitution 9:22 10:3,4 13:13,19,22 15:21 17:1,6,25 18:1,2 30:14 69:9 69:15 70:12 88:12 88:25 result 9:2 47:11 retain 15:21 retained 21:23 return 22:17,19 returnable 62:23 revenue 14:8 review 12:10 17:12 30:21 60:5,12 61:20 74:19 89:15 reviewed 10:8 59:25 reviewing 43:5 106:23 ridiculous 88:9 right 12:21 30:10 30:11 36:13 41:5 47:14 48:15 51:1 52:2 56:4 64:1 65:6 70:5 71:21 75:2 78:8 84:22 86:2 91:18 98:5,21 102:19 103:25 105:7,17,19 107:25 rimberg 5:1 8:4 rise 77:15 risk 29:13,16 80:23 road 4:11 46:12 109:20 rock 78:10,11,13 80:13,14 role 81:21 room 69:17 71:20 71:21 89:24	roofing 48:25 rosenberg 3:11 7:6 19:3 32:13,14,17,18 32:19,20,24,24,25 33:2,4,5 35:6 63:14 73:11,17,23 74:10 74:13 79:19 80:1,3 80:6,8,9,15,24 81:20,25 82:2,5,10 82:12,15,24 83:4 84:11 86:3,7,7,12 86:17,23 87:5 91:3 94:13,17,22 95:5 97:22,25 98:9,18,22 105:14 106:5,7,9,10 rosenberg's 74:5 91:12 94:19 rosh 19:21 roughly 71:3 round 42:22 roundabout 64:16 rubric 31:15 rule 39:11 70:18 76:18,24 91:9,10 103:10 rules 52:23 65:24 79:2 90:12 105:18 107:16 run 57:3,13 88:2 ruskin 3:18 7:18 rxr 3:22 s s 3:1,25 5:7 6:1 12:11 15:21 sabers 58:21 sale 14:4,5 sarah 3:20 7:21 57:20 satisfaction 25:16 54:24 82:3 satisfied 25:18 79:13 101:14 satisfy 14:8 15:20 saw 55:21 56:6 57:8 saying 24:10 25:22 33:10,12 43:4,23 44:3 45:1,19,25	65:15 69:24 70:3 71:21 73:1 79:9 says 23:4 27:4 33:1 38:9 40:9 41:9 42:6 42:17,19 44:2,2 50:10,11 53:17,20 53:22 73:12,18,20 74:8 75:15,22 scarcella 1:22 51:9 scared 67:9 schedule 25:25 92:15 98:12,18 102:7 103:12 107:6 schedules 74:21 97:10 scheduling 95:10 96:18 97:2,6,6 99:17 100:1,16,19 103:6,24 107:13 scheme 9:3 20:5,8 27:12,15 32:21 35:2 35:3,4 38:10,11,12 38:18 44:19 57:3,10 58:21 82:4 84:1,6 88:10,19,19 schemer 85:24 88:8 schneck 5:7 8:3,4 50:22 schneck's 27:14 scholer 3:10 7:4 schulman 37:2 scope 104:5,5,7,10 104:12 scrutinized 57:12 scrutinizing 30:24 scrutiny 36:15 37:10,10,11,12,21 47:7,8 48:21 71:19 seated 6:2 93:16 second 10:20 20:20 32:8,9 68:23 69:10 77:4,6 96:20 secondly 8:20 seconds 72:22 secrecy 83:7 secret 81:11 84:14 84:16
---	---	---	---

secreted 45:16 secretly 84:3 section 10:9,25 securities 88:20 security 54:20 see 28:10 82:16 86:6 101:12 seeing 19:18 23:16 35:16 60:6 seek 96:4 seen 24:14 29:7 60:4 select 92:12 self 56:20 sell 89:8,8 send 54:13 89:11 102:9,20,22 104:24 105:2 sending 43:22 102:15 sense 96:25 98:15 99:15 106:16,20 sent 24:9,20 25:23 35:20 36:2 45:14 53:7,18 89:17 sentence 9:5 74:6 sentenced 9:4 13:15 sentencing 10:4 49:4 separate 11:14 39:3 separately 23:12 39:9 september 1:18 93:24 94:1 95:12,20 99:8 107:4 sequence 105:12 series 10:9 seriously 84:18 set 9:20 30:20 63:8 100:2 102:2 107:22 settled 77:2,5 settlements 89:18 seven 40:6 96:23 seventy 61:19 shadows 81:11 82:8 shakes 31:2	shalom 4:7 8:1 45:25 shapiro 4:9,15 7:8,9 7:9 shareholders 78:25 shed 91:12 sheep's 25:2 45:20 shield 66:13 shifted 79:14 shifts 68:16 shine 74:2 shortly 106:22 shots 67:17 shouldn't 33:17 show 71:5 87:9 99:5 101:3,3 showed 71:5 sic 5:11,11 6:5,6 8:6 14:21 18:11 23:13 23:21 24:21 27:2,3 28:23 29:24 33:8 34:21,21,22 35:3 40:3 44:14,15 45:19 47:21 48:9 49:3,21 49:23 side 19:9 71:20,21 94:21 sign 33:15,21 54:19 signed 26:8,11,16 28:3 34:25 40:6 45:5,5 85:2 significant 60:22 70:21,21 silverburg 20:21 silverman 56:10 similar 84:9 simply 32:2 35:8 44:2 64:21 83:12 single 23:7 36:18,20 55:22 62:19 102:25 103:3,16 107:5 sir 69:21 sister 77:1 78:23 sit 54:10,14 65:10 72:24 74:11,12 90:6 91:17	sits 27:8 53:17,20 sitting 26:25 36:12 situation 31:22,23 44:11 57:16 78:20 six 40:6 69:17 sixth 20:24 skaw 2:25 109:3 skipping 6:5,8 sky 13:23 slightest 51:15 small 44:18 88:9 smaller 38:19 smart 58:23 smells 39:4,5 85:19 snap 67:10,10 soap 91:1 solely 105:25 106:2 solicited 21:24 solid 65:22 somebody 53:5 54:18 60:21 someday 89:8 someone's 105:21 somewhat 87:15,15 son 94:20 sophisticated 35:18 sorry 6:7 13:5 42:6 43:23 91:19 92:2 98:17 104:9 sort 6:20 8:10 14:25 15:1 18:23 62:7 sought 26:21 sounds 103:25 source 73:24 southern 78:22 spa 11:24 speak 15:15 36:22 43:9 71:4 82:10,11 96:19 speaker 6:5,8,14,19 52:13 66:6 96:19 101:18 105:6 speaking 19:4 67:21 100:20 speaks 76:2 specific 76:2 79:5 96:5	specifically 12:2 30:20 75:14,15,15 specify 76:11 speed 82:21 spend 65:4 105:20 spending 105:21 spilled 22:5 spoke 16:21 71:3 72:21,22 89:25 spoken 51:23 sponsoring 96:2,6 spring 39:19 sprinkling 86:9 staff 107:19 stage 104:3 stand 60:18,19 65:10 74:12 76:8 standing 58:10 61:22 66:5 76:16 77:7,12,16 78:3 79:2 81:5 91:1,10 standpoint 60:23 start 28:7 31:25 34:10 50:3 68:1 86:8 102:15 started 22:14 28:1 28:17 49:18 56:9 69:19 81:18 93:1 starting 45:1 starts 14:5 state 12:21,25 58:4 73:7 stated 60:9 statement 40:13 44:12 47:6 75:18 83:13 97:8 statements 16:1 71:10 states 1:1 10:1,5 29:9 statute 65:23,24 stay 51:10 staying 51:19 step 39:15,15 stepped 88:11 steven 5:11 7:17 58:18
--	--	---	--

sticks 64:23	suggested 80:21	system 30:12,13	tend 100:13
stock 15:19	suggesting 67:13	90:6	tens 35:10 45:24
stocks 26:2	76:25	t	term 54:9
stop 37:24 38:1,1	suggestion 35:15	t 109:1,1	terms 28:11 29:6,22
49:3 76:12	46:18 84:13,15	table 28:11 53:17	34:10 37:14,15 39:8
stopped 21:21 73:5	99:14	53:20 54:11 74:2	44:14 49:10 64:24
story 57:14,22	suggests 78:12	tables 85:13	67:20 98:2 105:12
66:23,25	suing 33:3,5,5	take 6:23 10:17	terrible 35:22
stranger 79:23	suite 3:5 4:12 5:4	34:24 47:14 53:12	test 74:3
strategy 72:7,9	109:21	53:25 58:2 62:13,15	testified 21:11
strongly 49:19,22	suited 15:12 72:10	62:15,16 65:25 69:7	testify 74:9 80:2,3
50:5	suits 69:4 87:3	71:1 78:8 83:8 84:7	80:19
stuck 26:19,19	sum 12:12	90:4,18 91:2,7	testifying 71:8 87:8
stuff 26:3 27:6	summary 62:22	92:10 95:9 96:7	testimony 62:15,16
51:24	summer 40:17 42:3	97:4,4,12 98:6,11	79:16 80:5 86:6
subject 11:3,6 24:6	42:3 43:22 66:22	99:1,6,11,12 100:17	text 24:21
39:17 47:7,7 56:24	sun 74:2	100:24 101:10,20	thank 6:2 7:7,22,25
64:18 67:21 79:10	sunlight 85:7	103:14,23 104:15	8:7 11:25 13:2
82:4 90:25 91:5,6	sunshine 74:16	104:17 105:3	15:13 18:12 19:1
submission 62:13	supervised 17:2	106:21	52:3,5,13 55:4,5
submitted 44:18	supervising 44:24	taken 21:2,19 23:17	58:12 59:23,24 68:6
73:16	supervision 29:5	56:20 57:22 58:7	71:1,2 77:11 81:7
subpoena 59:7	30:9 31:16	84:18 98:7,14	91:18 92:7,10 93:13
subpoenas 17:14	supplied 32:3 45:25	103:18 104:22	93:15 107:24
59:9	supply 102:4	takes 26:25 39:15	that's 10:22 11:6,16
subsequent 12:10	support 74:22	39:15 59:5	11:17,19 12:16
substance 18:25	82:17 87:7	talk 8:11,13 53:1,7	14:16,24 15:1 16:21
substantial 20:19	supposed 42:23	55:24 59:4 73:25	18:3,6,9,20 20:13
21:4,4,12,17 23:23	84:23	78:6 85:25 95:6	22:10 24:24 28:16
45:23 89:10	supposedly 20:7	101:19	28:24 29:2,19 30:12
substantially 15:25	22:15 26:1 35:11	talked 21:6 27:20	30:12 31:3,16 32:3
substitute 31:9	supreme 25:16	64:4	33:7,8 34:21,22
success 47:25	26:12,24 40:17	talking 20:9 21:14	35:3 36:10 37:8,25
successful 89:1	sure 8:17 54:17	22:11,21 90:8 97:15	38:3,4,17,20 39:7
94:11 95:2	58:15 61:8,9 69:17	102:13 105:13	42:20,22 43:5,18
sudden 26:22 29:15	69:20 70:8 77:8	talks 76:10 86:8	45:2,7 46:7 47:19
29:19 45:25 46:11	89:3	tapes 28:23	48:1 49:9 50:6
suddenly 84:21	survive 80:7,12	target 69:8	there'll 30:2
sue 33:10 35:23	suspect 49:19,22	targeted 56:19 57:9	there's 11:11 14:4
37:19 39:2	50:5	tell 10:7 32:10	18:8 23:12 25:20
sued 27:15 29:5,5	suspicious 85:15	33:22 38:12 42:19	26:16 29:5,6 30:6
32:25 33:4 35:10	86:8	44:20 50:5 51:25	38:12 42:17 43:4,5
36:24 42:5 58:19	sustain 68:17 79:15	68:9 81:19 87:19	47:19 48:21
87:1	swing 60:24,25	telling 29:12	they'll 37:20
suggest 29:18 31:18	sword 66:14	tells 90:7	they're 9:16 29:5
48:11 71:8 73:3	sworn 71:8	ten 76:6 92:25	33:4,5 37:20 41:20
91:8 102:7			46:1,9,12 48:19,24

48:24 they've 28:18 33:8 35:7 46:15 thing 37:23 38:12 58:22 59:22 74:15 85:25 89:11 90:1,12 100:4 106:3,19 things 16:2,23 29:8 31:20 45:21 46:20 47:23 53:13 70:10 72:1 83:10,22 90:10 think 11:15 14:13 15:11 18:16 19:3,18 19:19 25:10 31:20 32:5 34:5,7,12,17 43:3 48:20,23 50:10 52:12 56:19,23 57:18 60:2 62:11,20 65:21 67:3,13,14 68:9,10 72:15 73:10 75:4 83:24 87:1 93:7 98:15 99:15,20 99:22,25 100:13 101:11,15 102:5,11 102:12,23 103:8,13 104:12,20 106:1,16 106:18,19 thinks 61:4 third 59:1 thorough 16:6 thought 56:13 73:14 93:23 95:11 thousands 67:1 three 8:21,25 9:13 12:19,23 14:2 18:9 19:4 33:25 36:10 46:12 49:18 52:1 62:10 63:10,16 64:10 70:23 75:3 82:1,21 86:25 90:21 threshold 8:12,14 8:24 18:18,22 58:23 61:14,23 62:7,18 63:1,9,15,18,19 64:11 69:20 70:25 72:17	throw 98:12 thursday 93:25 95:13,19,24 96:12 105:2,5,6,9 107:3 time 10:19 13:17 18:13 19:11,12 21:16 22:1,1 24:1,2 25:13,24 28:1,2 34:15 38:7 40:1,14 45:10,23 51:23 54:5 58:21 59:11,12,17 59:23 65:4 68:24 73:5,5 85:5,5,5,5 86:16 90:15 92:6 93:4 99:10 103:14 103:19 104:17,22 105:3,4,20,21 106:20 times 73:13 74:7 76:7 timing 97:7,11,11 103:5 104:15 today 9:12 12:12 19:12,13,24 28:10 30:1 37:3 49:23,24 52:3 56:8,14,15 59:11,12,22 60:18 61:21 65:10 69:16 74:11 78:5 83:6 91:24 99:18 100:8 told 20:5 22:17 60:10 70:14,19 78:15 90:10,13 tomorrow 30:3 49:25 99:19 103:9 105:1 ton 33:9 tort 51:2 total 17:25 57:23 touch 55:17 tough 50:8 tower 3:21 transaction 20:25 36:19,20 54:6 transactions 20:6 20:18,23 21:3,12,16 23:22 43:6 54:3,7,8	65:5 transcribed 2:25 transcript 80:4 109:4 transcripts 23:16 transfer 53:14 54:2 transferred 35:14 82:2 101:5 transfers 82:15 transparency 68:2 74:1,16,25 81:23 treat 107:17 treated 57:9 74:17 trial 97:8 103:11 107:11 tried 41:19 true 32:3 42:21,23 47:10 49:5,8,8,9 67:12,12,13 68:25 76:4,4,6,8 80:25 109:4 trust 51:3 53:16 trusted 82:14 trustee 30:3,5,8 34:6 36:17,18,25 47:18,24 50:2,6 51:7 69:7 78:18 trustee's 69:7 truth 65:7 try 39:3 87:19 88:4 88:5 97:10 104:25 105:1 trying 11:1 37:12 42:10 71:14,25 74:1 79:17 84:9 93:18 tuition 80:10 turf 31:6 turn 9:22 10:1 13:20 14:8 16:3 30:2,4 33:10,12 35:23 43:12,15 50:2 69:12 75:3 80:8 83:7 107:12 turned 15:24 22:5 24:4 25:9,15,21 26:1 44:23,23 60:18	turning 30:7 31:20 36:8 82:14 twice 52:12 two 9:1,11 14:3 26:21 27:9 31:25 32:11 42:6 46:11 63:22 66:25 69:19 78:25 79:12 86:24 98:16 type 48:14 51:1 91:8 99:23 103:13 types 27:15 46:23
u			
u.s. 1:13,23 13:20 49:2 uh 68:11 ukraine 24:16 36:4 ultimately 31:1 34:14 49:10 61:13 80:20 89:2 umbrella 55:22 unknownst 22:7 unbelievable 13:24 uncomfortable 87:16 underlying 57:4 76:17,18,23 underscore 55:12 57:10 understand 10:18 11:10 14:25 22:2 51:20 58:8,9 62:23 75:10 79:17 91:22 106:1,17 understandable 67:16,16 understanding 12:2 12:19 61:6 71:15,15 71:25 92:25 understands 30:19 understood 55:20 81:21 82:23 86:11 undertaking 74:19 undisputed 44:15 44:16,20,21,25 45:2 45:3,7,8,10,11,12 45:17,22 46:3			

unfair 51:18,20 76:21 unfortunately 54:5 unidentified 6:5,8 6:14,19 52:13 66:6 unified 55:22 56:12 uniondale 3:23 unique 38:22 88:7 91:4 unison 93:13 107:24 united 1:1 9:25 10:5 29:9 universally 77:4 unjust 51:4 unknown 96:19 101:18 105:6 unnecessary 14:10 unpaid 101:6 unrebutted 49:13 49:13,14 unsupervised 24:3 untruth 73:3 83:16 upside 31:20 urge 49:2 51:22,23 65:21 urging 88:3 use 66:13 95:22 useless 78:20 utilities 80:10 utter 84:15	view 39:10 65:19 67:22 81:10,10 94:22 105:25 violence 91:9 virtually 23:9 visited 57:8 voluntarily 30:2 47:15 voluntary 27:24 vouch 93:10 voute 5:9 7:15 58:17	29:25 30:11 50:15 58:1 63:12 67:7 71:3 72:20 77:12 79:21 81:8 96:22 99:13,14 100:21,23 101:19 102:1,25 103:25 105:4,10 106:6 wasserman's 66:3 wax 45:13 89:13,13 wax's 66:3 wax's 46:8 way 18:21 22:20 23:6 30:6,12,13 31:16 34:1 35:13 38:17,18 46:13,14 47:12 48:8 54:4 62:11 64:16 71:13 80:14 81:9 87:14,23 90:3,6 103:3 ways 16:20 62:10 we've 51:9 58:20 70:14,19,20 75:4 98:6 102:8 wealthy 35:19 week 33:13 welcome 17:17 57:11 went 16:7 21:24 28:7 101:13 west 5:11 7:17 westerly 78:21 wexler 10:2 13:21 24:9,10 25:1,24 29:12 45:14,25 46:9 we'll 8:13 18:21 39:11 we're 6:22 18:3 22:21 24:17 42:4,5 49:2 we've 19:12 38:4 46:22 whatsoever 71:13 72:15 92:20 what's 18:7 27:23 28:11 36:9	white 5:14 whitefish 3:20 7:21 who's 35:18 wife 80:5 willing 101:22 window 25:10 winner 28:19 wire 35:14 wish 52:7 96:9 107:12 wit 68:7 withdrawal 53:18 witness 68:20 71:9 96:3,5,6,15 witnesses 67:24 70:8 95:25 96:1,2 97:7 wolves 45:20 word 84:5 words 14:18,24 24:24 54:23 87:14 98:16 work 9:23,24 22:18 42:10 46:13,16,24 71:23 88:17,23 worked 46:14 47:24 89:19 working 18:6 43:14 48:17 49:1 82:8 88:18 89:10 works 27:6 30:12 30:13 38:20 72:13 90:6 99:17 world 4:3 22:7 29:17 35:23 81:13 83:25 85:17,18,19 90:3 worse 26:10 29:22 worth 25:12,22,23 26:3,4,5 41:16 45:24 46:1,2 55:1 wouldn't 27:18 write 41:11,12,14 writes 42:2,6 writing 55:21 56:6 written 23:2 43:2 65:14
v	w		
vagaries 56:24 valid 9:15 16:17 79:6 valuation 89:9 value 9:9,9 18:7 25:14 various 15:3 28:22 32:23 35:15 89:19 98:7 veritext 109:19 versed 81:20 victim 38:9 40:10 victimized 55:25 victims 17:10,15 88:10,19,25 89:6	wait 68:6 waiting 71:7 walk 39:2 wall 55:21 56:6 want 10:6,17 13:11 28:7 33:20 36:15,24 37:6,10,11,13,15,16 37:18,21 38:4,25 39:1,8 41:15 46:17 51:18,20 54:11,12 54:12 57:14,22 58:7 58:13 67:20 72:14 74:2,2,15,16,16 81:13 83:25 90:9 93:2,8,20 95:14,19 96:4,9,11 97:4,12 99:1,6,11,17 102:17 104:24 105:1,11 107:15 wanted 34:8,10,11 41:6 52:20 56:4 87:4 89:21 97:1,4 wanting 51:25 wants 40:8 47:4 48:13,14 50:8 66:9 72:3,4,5 91:11 92:9 101:10 warranted 79:1 warren 5:16 7:14 7:15 58:13,16,17 washington 4:19 wasn't 28:14 33:18 wasserman 4:6 7:23 7:23 15:15,16 16:20		

[wrong - zucker]

Page 24

wrong 23:21 35:11 47:19 49:20,20 70:24 85:20 wrote 28:13 43:3 64:25 66:20,22
x
x 1:4,11 103:19 xt 64:24
y
yawn 2:25 109:3,10 year 24:8 25:11 45:13 55:24 86:17 86:17,24 years 9:5 27:9 30:18 31:25 33:25 36:11 37:16 39:7 46:11,12,15 49:18 52:1 57:7 59:12 65:6,6 67:8,14,17 81:17,17,18 82:1,21 83:18 84:21 86:24 86:25 yesterday 34:19 yom 19:21 york 1:2,16 3:13 4:4 5:5 26:12 78:22 you're 15:1,2,2 16:15 21:14 31:21 31:22 33:22 you've 10:7 19:6,7 19:11 33:1 44:11 46:16 50:2
z
zero 40:4,5,9,13 ziffman 20:14,19 23:17 zucker 58:18